

Sport Fish Advisory Commission Meeting

*Monday,
February 13, 2012*

Held at the
Maryland Department of Natural Resources
Tawes State Office Building
Annapolis, Maryland

***Maryland DNR
Sport Fish Advisory Commission Meeting***

February 13, 2012

SFAC Members Present:

Jim Gracie, Chair

Larry Coburn
Bill Goldsborough
Greg Jetton
Val Lynch
Dr. Ray P. Morgan II
Ed O'Brien
David Sikorski
David Smith
Herb Smith
Carol Stevenson
Roger Traseger
Brandon White
James Wommack

SFAC Members Absent:

Bill Windley

Maryland DNR Fisheries Service

Marty Gary
Tom O'Connell

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Sport Fish Advisory Commission Meeting**

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KEYNOTE: "---" denotes inaudible in the transcript
 "*" denotes word was phonetically spelled

A F T E R N O O N S E S S I O N

(1:00 p.m.)

Welcome and Announcements

MR. GRACIE: Call the meeting to order. Do we have any announcements?

MR. GARY: Thank you, Mr. Chairman. Commission, members of the public, welcome to the winter quarterly meeting of the Sport Fisheries Advisory Commission. At this time, please silence your cell phones. Today we have Laura Jackson from Audio Associates. Laura will be recording our meeting, and a verbatim transcript will be available 10 working days after this meeting and placed on the Sport Fish Advisory Commission website.

While I am on the subject of transcripts, Commissioner Smith brought to my attention, Commissioner Dave Smith, brought to my attention some issues with the November transcript, and there were indeed some issues with misidentified speakers. By all accounts, the actual text of the transcript was accurate, but there are some mislabeling of speakers so we are in the process of fixing that.

I would say to the commission now today going forward -- I realize what part of the problem was during that meeting. While Ms. Jackson has all of the commissioners mapped with their name tags and she knows who you are, it is very important that we transition our talking opportunities so

1 she can pick up on that.

2 I think what happened in November, after looking it
3 over, was an individual on the commission would start speaking
4 and somebody would jump in, and the court reporter was getting
5 confused in assigning who was speaking. So today, and I will
6 back Chairman Gracie up, please remember when you opt to
7 speak, raise your hand. He will acknowledge you. Laura will
8 pick it up, and then the next person, please wait in line
9 until Chairman Gracie has then acknowledged you.

10 It sounds simple but I think that was what led to
11 our problems in November, so I appreciate that. Also to
12 remind the public who is attending, there are two
13 opportunities for the public to participate in the Sport Fish
14 Advisory Commission meeting. One is after the commission has
15 made a motion but before they vote, and the other is at the
16 designated public speaking opportunity at the end of the
17 meeting.

18 So with that, we will move on. We have -- all of
19 our commissioners are supposed to be here today except for
20 Bill Windley. I think a couple are going to be running late.
21 Herb Smith did acknowledge that he would be running a little
22 bit behind coming in from McDaniel College. But we do expect
23 him. Brandon is not here yet but we anticipate he will be
24 here, so Bill Windley is the only one who has informed me that
25 he would not be in attendance.

1 There is one addition to the agenda, and we will be
2 handling -- in the Estuarine and Marine Fisheries Update, an
3 update on the pound net white paper request by Commissioner
4 White. Also some action items that were unresolved in the
5 November meeting -- there was a discussion about broken links
6 on the DNR website regarding our pound net map. And the
7 update that I have for you today, unfortunately, is that has
8 not been resolved, and I don't have a timetable for it.

9 We have -- a webmaster was working on that project
10 and we are currently without his services. He left us and we
11 are hiring a new person, so I will try to update you and let
12 you know the status of that. But right now that project was
13 in process and has not been finished. They are incorporating
14 that with our GIS mapping, and we are hoping to come up with a
15 much better product than was originally available.

16 On the calendar coming up, Mid-Atlantic Fisheries
17 Management Council is meeting today through Thursday of this
18 week. There is a Black Bass Roundtable scheduled here at DNR
19 on February the 28th. And we have two outreach events coming
20 up in the next couple of weeks. One is the Pasadena sport
21 fish group's annual flea market up in Earleigh Heights, and
22 DNR will have a booth there again this year for both days.

23 And DNR will also be supporting MSSA's Annapolis
24 Show. We will have a presence over there with some of our
25 staff.

1 And just a couple other announcements. One is sort
2 of a reflective, a look back on somebody -- there is a loss in
3 our community in recent days as I understand it. A captain
4 out of Deale, John McCewan. Ed, I think you know John. One
5 of the best blackdrum fishermen on the bay, but certainly
6 known for his fishing abilities across the spectrum. So
7 please keep John McCewan and his family in your thoughts and
8 prayers.

9 On an up note we have another announcement. Is Eric
10 Slokovich here? No Eric here. I was going to ask him for
11 something. But we will maybe deal with that later if we have
12 time in the meeting. So, Jim, at that point I think that
13 takes care of all the announcements on our end. The meeting
14 is yours, Mr. Chairman.

15 MR. GRACIE: Okay. First of all, I would like to
16 apologize for the short notice in the meeting change. It
17 turned out that an organization that I belong to had a
18 constitutional amendment sponsored in the hearing on that day,
19 and a number of members of this commission wanted to testify
20 at it.

21 I talked to Tom O'Connell that day, and I thought
22 Marty was going to get in touch with me so you would have an
23 explanation that went out with his e-mail, but Marty's e-mail
24 came out before I even talked to him. So that is the reason
25 we canceled the meeting and rescheduled it. So I thought that

1 was important enough. The constitutional amendment is one
2 that will prohibit the diversion of Chesapeake Bay Trust Funds
3 and Chesapeake Bay Restoration Funds to any purpose other than
4 that for which they are collected.

5 So what it does is protect the flush fee and the
6 2010 trust fund from diversions. At any rate, hopefully you
7 all will get a chance to support that. It is very important.
8 So that is what happened. I am glad we still have good
9 attendance here. We have an NRP report?

10 ***NRP Report***

11 ***by Lt. Kelley Johnson, MD DNR NRP***

12 LT. JOHNSON: Lt. Kelley Johnson, NRP. It was
13 pretty self-explanatory this month. Since I didn't get any
14 questions prior to the meeting I assume everything is
15 self-explanatory. You can see our manpower has been really
16 directed to the commercial fishery on the bay and Eastern
17 Shore, and dozens and dozens of cases have been made since,
18 you know, since this report came out.

19 On Friday, Lieutenant Kersey from the Eastern Shore
20 did have an update for me that didn't make this, that five
21 watermen on the Eastern Shore, Tangier Sound, got cited for
22 oystering on a sanctuary. One of the waterman that was cited
23 was cited within the last month so his dredge got seized. So
24 that was a big case on Friday that they made. Outside of
25 that, does anybody have any questions?

Questions and Answers

MR. LYNCH: Val Lynch. Kelley, on the Charles County recovery of tags --

LT. JOHNSON: Right.

MR. LYNCH: -- is that unusual or is that something typical?

LT. JOHNSON: Well, that is the first time that I have seen something like that in the briefing report, but I would have to call down there because I have never worked around that. I can find out if that is something that is typical for them or if it was so unusual that they actually put it in the briefing report. But I will find out for you.

MR. LYNCH: Just doing some quick math, that sounds like about 800 tags per licensee.

LT. JOHNSON: Maybe Marty would have a -- is that a typical return of tags for an office?

MR. GARY: I am not 100 percent sure, and Matt Lawrence is right behind me.

MR. LAWRENCE: (Away from microphone) There is always a significant return, so yes.

LT. JOHNSON: But I will call the lieutenant down there and find directly if that is unusual for their office.

MR. LYNCH: Okay. And could you just -- if there are that many returned, it poses a question why that many issued.

1 MR. LAWRENCE: We are required to --

2 MR. GARY: Matt, if you don't mind, maybe come up
3 and -- you can sit right here, Matt. First identify yourself.

4 MR. LAWRENCE: Matt Lawrence. Okay, we are required
5 in regulation to issue the tags, so just because a gentleman,
6 a fisherman doesn't use them, that doesn't mean we can't send
7 them. We do have a program in place where we ask that the
8 fishermen who are not actively fishing request their tags when
9 they are going to fish, but we still are required by
10 regulation to send them.

11 So that is why we send more tags than are used, and
12 there are a significant amount of tag returns at the end of
13 the year.

14 MR. LYNCH: And they are issued by name, correct?

15 MR. LAWRENCE: Yes, they are issued to the
16 individual fisherman. There is a sequence number on each
17 individual tag. That number, that sequence of numbers is
18 assigned to that fisherman.

19 LT. JOHNSON: I think in the next couple months, our
20 manpower throughout the state has really, really, really
21 been -- it is emphasized now on the commercial fishery, so by
22 the next meeting, there is probably going to be quite a few
23 cases made, because that is where our priority is.

24 MR. GRACIE: Maybe everybody will follow the law
25 because you are doing such a good job.

1 LT. JOHNSON: I wish it were more of us but -- yes?

2 MR. D. SMITH: Are you guys still working overtime
3 or is overtime --

4 LT. JOHNSON: All overtime is preapproved but we do
5 have grants, certain grants, and yes, officers do work
6 overtime on the grants. If there is no grant money we do have
7 to scrutinize where the money is coming from, but with the
8 grants the guys are working it.

9 MR. D. SMITH: Are there grants right now?

10 LT. JOHNSON: I think there is an oyster grant, yes.

11 MR. GRACIE: Any other questions?

12 (No response)

13 MR. GRACIE: Thank you. Tom? You have the floor.

14 ***Fisheries Budget and Cost Recovery Analysis***

15 ***by Tom O'Connell, MD DNR Fisheries Service***

16 MR. O'CONNELL: All right. While Marty is pulling
17 up the presentation, this cost recovery issue has been an
18 issue for a long time probably, but it has become more of a
19 focused issue beginning last winter when we experienced the
20 significant poaching of striped bass and the amount of
21 additional resources the department had to put forth to ensure
22 that fishery was being managed properly.

23 With that, there were a lot of questions in regard
24 to who was paying for that, and as a result of that and my
25 interest to adopt a cost recovery principle, we did so and we

1 have been working over the last year on this cost recovery
2 analysis and wanted to bring that forward to the commission at
3 this time.

4 (Slide)

5 So there is going to be -- I am going to cover three
6 things in this presentation. The first issue is in regard to
7 DNR's reporting requirements of Statute 4-745. It relates to
8 our budget, and it has been an issue that has surfaced
9 recently and I wanted to just go over that.

10 Secondly is the fisheries service budget, and lastly
11 the results of our preliminary cost recovery analysis. And I
12 think it would be good if we probably stop after each one of
13 those sections and see if there are any questions from the
14 commission.

15 (Slide)

16 So the first issue in regard to DNR's reporting
17 requirements to the Sport Fishery Advisory Commission, the law
18 does require the department to report annually the amounts
19 collected and expended from the sport fish license fees. And
20 also that the department shall solicit the advice and opinions
21 of the Sport Fish Advisory Commission as we prepare our plans
22 for expending these license fees.

23 (Slide)

24 As you have probably have seen my response to this
25 issue recently, we have not been providing these annual

1 reports, and it is something that we are going to begin
2 addressing in 2012. Those of you who know me well know that I
3 am a very transparent, very transparent in fisheries
4 management issues, and this is something that I have been
5 striving to get toward for a number of years now.

6 And this cost recovery analysis is a great first
7 step so that we can begin providing you the level of
8 information on our revenues and expenditures to be more
9 transparent and to get your input in those decision-making
10 processes. We have consulted with sport fish on annual work
11 priorities, but more work is needed.

12 If you recall, the last two years, in March of each
13 year, we did some priority-setting exercises, and we had taken
14 that input from this commission and put them into our annual
15 work plans. Obviously we probably need to spend more time on
16 that, and we will begin doing that in 2012.

17 (Slide)

18 I think, you know, from this recent issue, you know,
19 while, you know, it is a clear problem that we have to
20 address, I think it is also an opportunity, and some things
21 that it may be worth talking about today or perhaps the chair
22 person or a subset of the commission would want to spend some
23 time discussing this with us. As we go forward, and we take
24 advantage of this opportunity, you know, what is the level of
25 detail that the Sport Fish Advisory Commission would like to

1 see in these annual reports?

2 Going back to a former director, I did find one copy
3 of the presentation that was given to address this
4 responsibility, and it was very general. It was basically
5 this is how much money was collected. This is how much money
6 we expended, and it was expended in these categories:
7 management, research, monitoring. Those types of things.

8 To ensure that we are providing you with the
9 information you need to provide us input, what kind of
10 information would you like? You know, my sense going forward
11 to address this problem is by the July 2012 Sport Fish
12 Advisory Commission, I will provide a report on the revenues
13 and expenditures and how we plan to expend those in 2013.

14 Our budget -- it is large for one thing. The budget
15 is very complex, complex because our budget is still aligned
16 with an organization of fisheries from about a year ago, and
17 there has been a significant reorganization from that time.
18 That is one of the challenges as we try to account for the
19 expenditure of this money.

20 We do have a reorganization with fisheries in the
21 works right now. Hopefully that will be approved and that
22 will give us the opportunity to begin realigning our budgets,
23 and it will be easier for us to answer these questions as they
24 come up in the future.

25 So with that, Mr. Chairman, if there are questions

1 regarding our reporting requirements --

2 *Questions and Answers*

3 MR. GRACIE: I have one for clarification. When we
4 discussed priorities, it started -- as I recall, the
5 commission said why aren't you doing this? And I think the
6 fisheries service response was, well, is this more important
7 than that? And we all had a tough time making those decisions
8 without having an overview of what you are doing and what it
9 costs.

10 My problem is simply that I can't figure out what
11 the budget is telling me based on the official budget. And I
12 thought that should be set up on a, I will call a programmatic
13 basis. In other words, how much money are you spending for
14 these programs, and where is it coming from? Just changing
15 your budget to match the organizational structure may not be
16 enough.

17 So I would certainly -- I will reiterate what I told
18 you. I would certainly like to have a look at what you are
19 doing before you finalize it and spring it on us in July and
20 we say, oh my God, that doesn't help us. Then we will have
21 lost months.

22 And if there is anyone on the commission that would
23 like to work with me on that, to be a small committee, I will
24 be happy to accept volunteers to work with me on that, but
25 that is my input for that. I think it is very important. The

1 budget we have now, I can't figure out where we are spending
2 and what money we have got.

3 MR. O'CONNELL: I think that is a great idea. I
4 mean, we need to break it down to the program level, and when
5 issues come up like the tidal black crappie FMP --

6 MR. GRACIE: Exactly.

7 MR. O'CONNELL: -- you know, in order to do that,
8 one needs to be dropped to do that. So I would be very
9 interested in working with Jim and a subset of the commission
10 to try to outline that so we can provide that information
11 going forward.

12 MR. GRACIE: If you are not sure you want to do that
13 now, just get to me some time after the meeting. Are there
14 any other questions on what Tom has presented?

15 (No response)

16 MR. GRACIE: Any other commissioners have a
17 question? Okay.

18 (Slide)

19 MR. O'CONNELL: So the next part of the presentation
20 is an overview of the budget.

21 (Slide)

22 This is a presentation I gave the fisheries service
23 staff last month so I recycled it for today. Just in overall,
24 the fisheries service budget is about \$30 million, and it is
25 broken into these four major fund categories: general fund,

1 special, federal and reimbursable. And the reimbursable funds
2 are entirely from the Maryland Port Authority for oysters and
3 a little bit of hatchery work.

4 Just some general trends you can pick up on, the
5 general funds, you can see, from 2009 to 2012, has been
6 relatively stable of about \$5 million. The increase in 2012
7 is partially related to the transfer of the Department of
8 Agriculture Seafood Marketing/Aquaculture Programs to the
9 department. But in general it has been relatively stable.

10 If any of you have taken a look at the FY13
11 proposal, you will see our general funds have dropped, and I
12 will go into that in a little bit more detail on the next
13 slide. Special funds, you can see that the special funds have
14 increased. Federal funds have increased significantly. That
15 is largely due to the federal Blue Crab Fishery Disaster
16 Grant, which, you know, is pretty much -- is being exhausted
17 here in the next year.

18 And then the reimbursable funds have been relatively
19 stable of about \$1.6 million. That has increased to \$2
20 million for the oyster project. So that gives you a general
21 sense on how our budget has fared in the last six years.

22 (Slide)

23 In regard to our current fiscal situation, as the
24 department has experienced significant general fund cuts over
25 the last several years, there has been a strong commitment to

1 | buffer those cuts to fishery service. And while you have seen
2 | our general funds have been relatively stable the last five
3 | years, they have begun to drop in 2013.

4 | That is largely because the department has basically
5 | run its course, and other units which have lost significant
6 | amounts of general funds, there is just no more to be cut. So
7 | we are finally beginning to be impacted by this recession that
8 | we are in.

9 | We have been fortunate that we have had a surplus of
10 | special funds for a number of years, and we have been able to
11 | utilize those special funds to continue important programs
12 | that are -- for fisheries. Some of the water-quality
13 | monitoring programs, Maryland Biological Stream Survey,
14 | Natural Resources Police -- we have been able to continue
15 | those services utilizing our special fund reserves.

16 | Unfortunately the special fund reserves -- not only
17 | in fisheries service but departmental-wide -- will be
18 | exhausted in 2013. And beginning in 2014, fisheries service
19 | alone is facing a \$3.2 million budget deficit. That \$3.2
20 | million deficit is based upon us getting the federal grants
21 | that we are currently getting.

22 | And as I am sure all of you are aware, the federal
23 | government is beginning to experience the problems the state
24 | governments have experienced the last several years so that
25 | \$3.2 million budget deficit may be a minimum. And that led

1 the department to looking at this cost recovery analysis to
2 assess the justification for increasing fishing license fees.

3 (Slide)

4 I am going to begin going into the preliminary cost
5 recovery analysis. The motivation for the cost recovery
6 analysis was three-fold: One is that fishery service
7 committed to this cost recovery principle in 2011. We
8 experienced this cost recovery principle when several of my
9 senior managers went out to British Columbia a few years ago.
10 It was a common principle out there that fisheries paid for
11 the services that were being provided to them.

12 We were really intrigued by that. It was something
13 that we had been talking internally about, and we formally
14 made a commitment to that in 2011. Accountability: Obviously
15 when you make a commitment to cost recovery, you need to begin
16 evaluating what cost recovery level is being achieved within
17 each management sector. And like I said before, this was
18 largely focused on striped bass initially, but our cost
19 recovery analysis covers all the fisheries in Maryland.

20 And lastly, when we realized the budget deficit
21 problem that we were facing, it was also useful in looking at
22 how we were going to address that deficit going forward.

23 (Slide)

24 So one thing I wanted to take an opportunity during
25 this presentation, because it relates to this issue, is the

1 scrutiny that the department has been under in regard to what
2 actions, or lack of action, the department has taken in regard
3 to the commercial striped bass fishery.

4 And just to review the history of these discussions,
5 one, following the poaching events from last winter, gill net
6 fishery, fishery service and NRP spent a lot of time
7 conducting a comprehensive review of harvest accountability,
8 enforceability and cost analysis for the commercial striped
9 bass fishery. That then followed with a proposal during our
10 scoping process on what reforms we were going to make for the
11 commercial striped bass fishery.

12 If you go back to the July 17th meeting of this
13 commission, you will see on slides 3,7 and 11 how the
14 department had planned to go forward with this cost recovery.
15 On August 25th, there was a Sport Fish Advisory conference call
16 that was called following this July meeting for which I was
17 not able to attend. And the reason that meeting was called,
18 there were a couple of issues.

19 One is that there was, at the July meeting the issue
20 about utilizing the federal sport fish excise tax on
21 commercial striped bass tags was brought up, and during this
22 conference call I clarified that was a fact and that I had put
23 a stop to that, and we were leaning toward using general funds
24 until commercial special funds could cover that cost.

25 Another issue that came up was the cost and funding

1 source for the striped bass sustainable certification process.
2 During the July Sport Fish Advisory Commission meeting,
3 questions were asked, and Steve Early responded that the cost
4 was about \$130,000, and the funding source was the fishery's
5 research and development fund.

6 And that was followed by a question: Does the
7 fishery's research and development fund include recreational
8 dollars? And the answer was yes. That was then taken that we
9 were using sport fish dollars to cover the cost of the striped
10 bass sustainable certification process.

11 That was not the case, and I clarified that on the
12 conference call that while the commercial and recreational
13 title and license fees come into the fishery's research and
14 development fund, we were looking toward the commercial
15 dollars in that account to cover the cost of the striped bass
16 certification process, with any remaining balances being used
17 by general funds.

18 So that was the purpose of the conference call. I
19 know that there are still some of these questions that are out
20 there on some of the forums, and I wanted to clarify that.
21 Mr. Chairman, you have got a question over here.

22 MR. GRACIE: Oh, I am sorry. Brandon?
23
24
25

Questions and Answers

MR. WHITE: So can we see -- where can we see that budget line item, how the money comes into that fishery fund and how you guys allocate it because while you are saying that, we have never seen a paper to my knowledge that says here is how much is in there, here is how much is the commercial portion, and how the pie is divided up.

So without seeing that, you have to understand that there is some skepticism out there of exactly what is going on.

MR. O'CONNELL: I agree with that, and one of the difficulties with that fishery's research and development fund, the license fees from both recreational and commercial dollars go into that one fund account. And the only thing that we can show is that we know how much money comes in from the commercial side. We know how much money comes in from the recreational side.

And through this cost recovery analysis, we are demonstrating how much, you know, what that commercial special fund is being used for, and if there are additional management costs for the commercial fishery, how we are paying for that. That is going to be clarified through this cost recovery analysis.

At this point in time, you know, I can tell you that we are not utilizing the commercial dollars to pay for that

1 certification process. And if there is not enough money in
2 there, we are utilizing the general funds.

3 MR. WHITE: And we are going to see a line item
4 version of this so that we can see that? I mean --

5 MR. O'CONNELL: What the line item in the budget is
6 going to say -- special funds, fishery's research and
7 development fund. The question we are going to be looking at
8 is where do those commercial special fund dollar get used?
9 And it is going to include that striped bass certification
10 project.

11 MR. GRACIE: Brandon, aren't you asking for -- where
12 is that documented? Where can we see the documentation for
13 that? That is the question.

14 MR. O'CONNELL: And what I am answering is that the
15 line item will not give you that level of specificity because
16 the fishery's research and development fund is not separated
17 by recreational and commercial dollars.

18 MR. WHITE: But we can know how much recreational
19 money comes in there and how much --

20 MR. O'CONNELL: Yes.

21 MR. WHITE: -- commercial money goes in there and
22 what is spent from the recreational and what is -- and then
23 the discussion will be, if they are using general funds and
24 going to that. So that is what level we will see.

25 MR. O'CONNELL: As we go through this cost recovery

1 analysis today, you will see that, you know, based upon this
2 preliminary analysis, it does not appear that we need to use
3 recreational dollars to cover commercial costs. But we do have
4 to use a disproportionate amount of general funds to cover
5 those costs.

6 MR. GRACIE: In other words, this cost recovery
7 analysis is going to present the basis for those conclusions?

8 MR. O'CONNELL: Yes.

9 MR. GRACIE: Okay.

10 MR. O'CONNELL: So then just following this
11 timeline, in September through November, the department
12 proposed these striped bass reform measures. There was
13 a -- two five-hour open house public meetings, one on the
14 Eastern Shore and one on the Western Shore in early October.
15 And if you look at the material that was presented during
16 those open houses, there were several slides that focused on
17 this cost recovery issue.

18 It was also, as our normal, formal regulatory
19 process, online resources and a 30-day public comment period,
20 and during the discussion with Sport Fish, of which MSSA has
21 two seats, did not suggest an alternative approach that was
22 proposed, than what was proposed. Got another question here.

23 MR. GRACIE: Dave?

24 D. SMITH: My question, I think you are missing --
25 parts of this slide is my name or whatever you want to use

1 here, MSSA at the open houses, I talked to three employees of
2 DNR. I signed in stating alternative approaches to this. So
3 I don't know if that was omitted on purpose or just an
4 oversight. Just clarifying.

5 MR. O'CONNELL: Yes, it is correct that MSSA did
6 submit comments during the public scoping process opposing the
7 reopening of the gill net fishery. The focus here is that the
8 Sport Fish Advisory Commission, of which MSSA has two seats,
9 did not suggest an alternative approach in what the department
10 proposed.

11 Those regulations that were proposed were adopted on
12 November 28th. Dave and I had a lunch meeting on November
13 29th, at which I gave him all this information and in greater
14 detail than I had been doing publicly. December 2011, the
15 regulations became effective, and we began to also implement
16 some of the administrative changes, which included the striped
17 bass 5 percent holdback for the commercial fishery.

18 We continued to closely monitor the fishery, and as
19 you can see from Natural Resources Police Report, compliance
20 has improved this year. And going forward, we have, we
21 are -- hopefully in the next day or two you will see
22 legislation the department is pursuing to begin to address
23 this cost recovery issue.

24 And that was, you know, consistent throughout this
25 timeframe, the department was going to be pursuing license fee

1 | increases and/or the ability to recover costs associated with
2 | tags and hailing services. So despite that information, there
3 | was a statement put out by MSSA to its members on December 6th,
4 | I believe, and, you know, I just wanted to reiterate some
5 | important facts because that information was pretty widely
6 | distributed.

7 | The first, we were criticized that we didn't have a
8 | comprehensive plan, and we did have that. We had multiple
9 | discussions with the public, with our commissions and
10 | personally with Dave Smith on that.

11 | Secondly is that -- the question is do we have the
12 | funds to cover the commercial management and enforcement
13 | costs? We have stated before and again tonight that we do
14 | have the funds to cover those costs. It is being heavily
15 | relied up general funds, and that is an issue we are trying to
16 | address because that is not our long-term solution to address
17 | these cost issues.

18 | You know, just to reiterate that the department and
19 | the governor have acted swiftly to address problems associated
20 | with our commercial striped bass fishery. Last year we did
21 | close the fishery when we learned of these problems, and we
22 | only reopened it when we were confident that we could address
23 | the accountability and enforceability issues and not exceed
24 | the quota for that fishery.

25 | There was a reference in regard to ASMFC with

1 utilizing this poaching information as a basis for their draft
2 addendum 3 to cut back harvest not only on the Chesapeake Bay
3 but also along the entire Atlantic coast. If you go back and
4 review the draft addendum, it was not one statement in the
5 draft addendum that pertains to poaching in the Chesapeake Bay
6 as a basis for that action.

7 There has been a concern expressed by ASMFC in
8 regard to poaching in the Chesapeake Bay. The department has
9 been very forthright to the commission, and the commission has
10 received that very positively. And lastly, the Atlantic
11 States Marine Fisheries Commission has been looking at
12 Maryland as a model for other states as they begin to address
13 these striped bass commercial poaching activities.

14 Lastly there was a statement that the egregious
15 poaching of commercial striped bass has continued, but we are
16 not aware of any egregious violations of the magnitude that
17 occurred the previous year. So with that, I haven't received
18 a response from Dave, but I have been really interested as to
19 what was the purpose of that membership letter and the
20 statements that were made, and perhaps we will get that
21 information today. So that is the end of this section.

22 MR. GRACIE: Brandon?

23 MR. WHITE: Well, two things. First, in regard to
24 how the new program was -- the new regulations or whatever
25 that package is for the commercials. I was -- so I can only

1 speak from my own experience on the commission. I was aware
2 that we talked about it. I was aware of the open houses
3 because I attended them -- or one of them, on the Eastern
4 Shore.

5 But I was never aware that after -- my understanding
6 was that after those open houses that you were then going to
7 take all that feedback, come up with a plan and then I assume
8 come back to the commission with an idea of what was going to
9 go on based on all the feedback.

10 But I never saw, unless I missed it, the department
11 coming back to the commission with all the feedback that was
12 gathered in all of the open houses, and all of the ideas and
13 revisions that may have happened and said, here is what we are
14 going to do and we are moving forward with it. Is that -- did
15 that happen?

16 MR. O'CONNELL: No. So again going just back to
17 process, that wasn't -- so we did public scoping in July and
18 August. We came to the Sport Fish Advisory Commission, we
19 went to the Tidal Fish Striped Bass Workgroup. That was where
20 we were collecting the input to determine how to proceed. And
21 I guess it was September the formal regulatory package was
22 submitted.

23 MR. WHITE: Right. So there is the gap. The gap is
24 that I think the expectation was that you would collect the
25 data and come back to the commissions and say here is what we

1 collected. What do you think so that we can provide further
2 feedback on the aggregation of feedback that you collected
3 that we couldn't. And that didn't happen. Fair?

4 MR. O'CONNELL: The opportunity for the Sport Fish
5 Advisory Commission to provide that input was during the July
6 17th meeting. That was part of the public scoping. When we
7 submitted the formal regulation and went to the open houses,
8 that is just the formal comment period. We don't ever come
9 back to the commission with that public input during that
10 comment period.

11 We have gotten the Sport Fish Advisory Commission
12 during the scoping process. Sometimes we get commission input
13 during the formal public comment period of the proposal. But
14 it is not common practice that we come back to commission
15 after we receive comments during the formal regulatory --

16 MR. WHITE: With a plan that you devised to ask our
17 opinion on it?

18 MR. O'CONNELL: The plan was what we presented in
19 July, and that is what the department ended up proposing --

20 MR. WHITE: So you made no amendments to that --

21 MR. O'CONNELL: No.

22 MR. WHITE: -- based on the public comments out of
23 two scoping meetings.

24 MR. O'CONNELL: I would have to go back for sure but
25 the basis of what we presented in July was what was submitted.

1 MR. WHITE: Okay, if that is how it goes forward,
2 then that is fine, if that is all understood but that wasn't
3 understood by me, and maybe that is my own fault and I will
4 take responsibility for that.

5 The other part that -- just so I can address it --
6 was the, in that whole exchange between you guys -- I say you
7 guys, DNR and MSSA -- was when I read the letter, it was that
8 ASMFC took into consideration the poaching that went on in
9 Maryland. And that influenced all the decisions. Not that it
10 was the very basis of it. I mean, I think that is technically
11 probably correct based on what I have read in the accounts of
12 it.

13 But I took it as the spirit that ASMFC does take
14 into account the large poaching, and the problems that we have
15 here in Maryland, and it was only evidenced, and that was
16 confirmed by me, when I read the release that they released
17 last week that that whole, I don't know what they call it,
18 committee or task force is what they call it, I believe,
19 mentioned Maryland several times in the Chesapeake Bay.

20 So it is very clear at the ASMFC level that the
21 poaching that happens in Maryland, they are aware of. It was
22 mentioned in two major newsletters in the northeast of
23 recreational groups recently -- the Jersey Coast Anglers
24 Association, and I believe the Rhode Island, or whatever they
25 call themselves, RI whatever.

1 So technically maybe that was, maybe that is what
2 you guys are debating. But from an outsider looking in, I was
3 just looking at it as, is that the ASMFC takes into account
4 the things that happen here, and the department's response was
5 that is not as important. And when I read that, and I think
6 other people did as well, they said how could the department
7 really be saying such a thing when we know that they take that
8 into account?

9 We have discussed that in this commission meeting on
10 various accounts, and then they come out with a press release
11 that says it, that has Maryland and Virginia basically -- the
12 finger pointed right at us? So I am giving you an outsider's
13 perspective because I wasn't in your meetings and I don't know
14 all the intricacies of what goes on in those discussions.

15 But from an outsider's perspective, I think that is
16 what the perception was, and I think I expressed that to you
17 and someone else in the department because if you are in the
18 know, that is all great. But if you are not in the know, like
19 some people, it appears that the department is saying it is
20 not important, and that may not have been your intent but that
21 is what has been communicated.

22 MR. GRACIE: Do you want to respond?

23 MR. O'CONNELL: Yes. You are absolutely correct
24 that Maryland is under the spotlight, under scrutiny with
25 ASMFC, and they look at what is going on here very carefully.

1 And we are very sensitive to that, as you heard Captain
2 O'Brien talk about many times.

3 What I am saying is that the reason for draft
4 Addendum III, for going forward, was not because of the
5 poaching in the Chesapeake Bay, and nowhere in the document
6 can you --

7 MR. WHITE: Fair. I wouldn't -- I am not saying
8 that that wasn't. I am saying that that is all great, because
9 that was your, the department and MSSA's issue. But from a
10 public relations standpoint, if you don't understand that and
11 you are not in the know, it looks very different. So I can
12 only express that from hearing the feedback and reading it
13 myself that that is how it came across.

14 You guys can hammer out your technical was that the
15 basis. To me, I don't really -- I don't know if that matters.
16 What matters is the -- the overall importance of the issue is
17 that poaching here has an effect on what the ASMFC thinks of
18 us.

19 MR. O'CONNELL: That is true.

20 MR. GRACIE: Dave and then Ed O'Brien.

21 MR. D. SMITH: Well, I don't think we need to waste
22 anymore -- people's time on this. MSSA and the department
23 disagree, and that is okay. We still believe we don't have a
24 comprehensive plan.

25 MR. GRACIE: Ed?

1 MR. D. SMITH: I am not done. I mean, I could go
2 through here and pick this whole thing apart, but I am not
3 going to. There are still problems. Cost recovery is still
4 not being met. Nowhere in that document or in my letter did I
5 even touch on Addendum III. I just said what Brandon said,
6 that ASMFC is looking at us like we don't have control over
7 our fisheries, gill net fishery specifically.

8 We took a stance that the DNR does not have a
9 comprehensive plan, and you are right, Tom, there hasn't been
10 egregious poaching problems since, but there will be, and
11 there has been with the pound net. I will leave it at that.
12 I don't think anybody else wants to hear me and DNR go at it.
13 That is where I am.

14 MR. GRACIE: Ed O'Brien?

15 MR. O'BRIEN: Well, Dave, maybe you and I can go at
16 it. First of all, it has been disappointing to me that you
17 don't attend these ASMFC striped bass meetings representing
18 your people.

19 MR. D. SMITH: Time out, really quick. Ed, do you
20 think it is appropriate that we do this after the meeting?

21 MR. O'BRIEN: No, I think it is appropriate right
22 here and now and reflects to Brandon's conversation.

23 MR. D. SMITH: By all means then.

24 MR. O'BRIEN: Well, thank you very much. First of
25 all, if you would have been at the ASMFC meeting, the last

1 one, there is no question that the poaching thing caused a lot
2 of grief at ASMFC, and me being an advisor and actually
3 initiating a lot of the discussions about ASMFC losing
4 credibility because they weren't attacking such things as
5 poaching and things that were happening before that,
6 particularly off the coast of Virginia.

7 This last meeting, and actually the meeting at
8 Boston too, in which you weren't represented, the tone changed
9 toward Maryland. It really did. And the tone said, hey, you
10 all are doing it, you know, in cooperation with federal
11 government. You know, your arrests are being made. People
12 are being cited. They put a list up on the -- you know, just
13 who had been fined, by name. How much they had been fined and
14 what their violations were.

15 At the last meeting, the executive director of
16 ASMFC, he came out and said, and addressed the whole group,
17 all the commissioners, and said, you know, we have been
18 harping on the bay, we have been harping on Maryland. And
19 obviously we have got a lot to do there.

20 He said but for the grace of God, all of you people
21 up and down the coast could have been under the same scrutiny,
22 and I am sure that things would have come to light. And that
23 was a very accurate statement. So as I said, the tone toward
24 Maryland I think has shifted based upon the arrests that we
25 have made and ongoing investigations that -- somebody from the

1 U.S. Attorney General's Office came and addressed as to what
2 was going on there.

3 So Brandon, you know, again, you aren't able to make
4 these meetings either.

5 MR. GARY: Brandon, Brandon, hold on for a second.
6 Just to reiterate for everybody, please wait for the chairman
7 to acknowledge you. We don't want to run into the same
8 problem we did with the November transcript.

9 MR. GRACIE: I will let you know when you have the
10 floor, Brandon.

11 MR. O'BRIEN: So that is my comment on that detail.
12 I am sure we will have other things we are going to discuss.

13 MR. GRACIE: Did you want to make a comment,
14 Brandon?

15 MR. WHITE: I would.

16 MR. GRACIE: Go ahead.

17 MR. WHITE: I am not arguing with you, Ed. I never
18 in my comments said that they didn't shift, or they -- maybe
19 the opinion. My point is that our poaching in Maryland has a
20 great influence at the ASMFC level. If they have changed
21 their opinion of us, I think that is great. However, we were
22 mentioned, if I recall, maybe four times in that press
23 release, and the Chesapeake Bay possibly three. Don't quote
24 me, but I read it several times.

25 My point is that the poaching in Maryland has an

1 influence, and they are watching us. Maybe they are
2 congratulating us on the great job we are doing because we are
3 turning things around, but they are still looking at us, and
4 what happens here still influences what happens there. So I
5 don't think you and I disagree. I think you have actually
6 validated what I said, which is that in fact there is a lot of
7 discussion about Maryland most of the time.

8 MR. GRACIE: Greg?

9 MR. JETTON: I would have liked to kind of address
10 back to Tom a little bit here about what we got about a
11 comprehensive plan here. And coming from the town I come from
12 and the background I come from, I can assure you that the
13 changes you have made in the fishery so far, just the gill net
14 fishery, have had an adverse affect on people trying to poach.

15 You can see it. I take a lot of grief for it, but
16 it is a good thing. The changes you have made at check-in
17 stations, the changes you have made on the way nets are
18 marked, the way you go in and out of the harbor, have
19 adversely affected the way these guys are fishing, and they
20 are watching themselves, and it has had an effect.

21 If you are not in the trenches to see this, because
22 nobody has gotten caught, nobody has got in trouble, maybe you
23 don't think anything has been done, but it has, and I think
24 that it shows on itself.

25 Cost recovery in our commercial fisherman industry

1 is very complicated, and I can't imagine that we are going to
2 settle that in a 30-day or 90-day time period because of the
3 way TFLs are and commercial licenses are, we don't separate
4 how much gill net fishery is, how much pound net, how much
5 clam and how much crabbing costs.

6 There is no way we are going to get that all in one
7 little short shot here, and I think you are doing a great job,
8 and it shows. I believe it does.

9 MR. GRACIE: Anything else?

10 MR. O'CONNELL: Can I comment on that?

11 MR. GRACIE: Sure.

12 MR. O'CONNELL: Thanks, Greg. One point that I
13 didn't cover and I just want to use that as an opportunity is,
14 you know, while we have been very prescriptive in the
15 commercial reform measures, in regard to cost recovery, it has
16 been rather general. The department plans to address this
17 issue like with your license fee increases or recovery of tag
18 costs, handling services. And I know that there has been a
19 lot of interest to see what the plan of that is.

20 And, you know, when we had that conference call in
21 August, you know, I asked for the commission's patience in
22 dealing with that level of detail because we were pursuing a
23 bill that we were not in a position to comment on or provide
24 any details until we had approval from the state house, and we
25 didn't get that approval until early January.

1 I can tell you that there was a lot of work with our
2 economists outlining the specific license fee changes that it
3 would take to address this cost recovery issue, and it is
4 significant, and is one of the reasons why the administration,
5 the department thought it would be best to go through -- do a
6 summer study on it. But, you know, I can understand the
7 desire for greater detail on the cost recovery plan but we
8 were not in a position to provide that at that time.

9 MR. GRACIE: Bill Goldsborough, you had a comment?

10 MR. GOLDSBOROUGH: Yes, I have two comments if I
11 may. First off, on ASMFC, I feel like I ought to weigh in a
12 little bit since I am the citizen representative from
13 Maryland, Governor's appointee as they call them, and I have
14 been present for all of the deliberations on striped bass,
15 both the addendum that was considered and not proceeded with
16 last fall and all the enforcement stuff.

17 And I can tell you that the -- all the discussions
18 about the addendum, both whether to initiate something in the
19 first place and then in the end the decision to not go forward
20 with any cutbacks, were not driven at all by enforcement
21 issues in Maryland. Maybe that was on somebody's mind, but
22 nobody said anything about it. So that is point one.

23 Second, on enforcement discussions at ASMFC, we did
24 hear from this task force led by the Justice Department. It
25 was on the November agenda, and then we actually got the full

1 report just last week because of time constraints in November.
2 They view Maryland in a very positive light with respect to
3 commercial enforcement.

4 I think -- of course, initially, they wanted to look
5 into it, but once they looked into it, I think they are taking
6 the view, on one very superficial level, that when you bring
7 cases, obviously it doesn't just mean that there are
8 violations, but it also means that there is effective
9 enforcement going on because you are bringing cases.

10 But they looked at all the changes that had been put
11 in place as well since those cases were brought, and they are
12 holding up Maryland as a model, as Tom said. That is
13 accurate. They are holding up Maryland as a model for what it
14 is doing on its commercial fisheries enforcement.

15 The second thing I wanted to comment on is -- was
16 some of the earlier discussion. First, just a personal
17 comment that the four principles that the department has
18 adopted now that includes cost recovery -- enforceability,
19 sustainability, and accountability -- as a personal comment,
20 as far as I am concerned, it is an astounding development that
21 we all ought to feel really good about.

22 I don't know any other state that is holding
23 themselves to those kinds of standards. A lot of it did come
24 about because of what a lot of people in this room did on the
25 Fisheries Management Task Force a few years ago. That is

1 | where that -- from whence that grew.

2 | But what we have got right now, this administration
3 | is taking those things seriously and applying them. It is not
4 | something that is going to change the whole climate, the whole
5 | culture, overnight. It is going to take time to work out some
6 | of this stuff, but I am just thrilled, and having seen half a
7 | dozen other fishery directors and administrations over the
8 | last three decades working on fisheries, this is a
9 | renaissance.

10 | I mean, not to overstate it, but just for effect.
11 | It is unbelievable to me. I also want to just relate one
12 | recent story. Earlier today actually, the Maryland
13 | Sportsmen's Foundation, on whose board I sit and some others
14 | around this table sit, had a board meeting this morning.

15 | And while we didn't have enough time for this
16 | discussion, we got a sense of the group, and this was about
17 | the criticism that has been taking place online about the pace
18 | of achieving these principles, in particular the cost
19 | recovery. And I haven't seen it. I saw the initial thing
20 | that Ken Hastings did, but I understand that there were some
21 | comments as far as calling for Tom to resign as fisheries
22 | director.

23 | It just blows my mind that somebody would come to
24 | that conclusion given the extraordinary effort that is being
25 | taken place to adopt and put those principles in place. And

1 | so the sportsmen's foundation board had this discussion, and I
2 | am quite sure he is going to come out and fully support the
3 | fisheries service and the department for all that work.

4 | And I can say that pretty confidently given that
5 | they did write a letter to the governor just last month in
6 | connection with the related issues that the MSSA letter had
7 | brought up. So I just wanted to share those thoughts with you
8 | guys.

9 | MR. GRACIE: Sikorski, then you.

10 | MR. SIKORSKI: Bill and Greg make some great points.
11 | In my short time in fisheries management, I have found it -- I
12 | have always been a critic of, I guess, bureaucratic systems in
13 | a way personally. I am a relatively young man, and it has
14 | been very eye-opening to become part of this process.

15 | And it has caused me to gain a great amount of
16 | patience in dealing with groups you don't agree with
17 | necessarily all the time, and try to form an ability to,
18 | regardless of whether you -- I agree or disagree with
19 | somebody -- to always treat them with respect on a personal
20 | level and understand that maybe we may not agree, but we all
21 | need to work together in order to achieve something better
22 | than what we started with.

23 | And I think we have an amazing opportunity in the
24 | state of Maryland right now as recreational anglers to achieve
25 | something better than what we have started with, and every

1 | time we, any groups, fight each other in a less than
2 | respectful fashion, whether it be an organization versus the
3 | department or an organization amongst each other, it sets us
4 | back as recreational fishermen. It hurts us as recreational
5 | fishermen.

6 | Not to say that there aren't things that we wish we
7 | could do better and quicker and more efficiently, but when we
8 | fight each other in a public light, it does nothing but hurt
9 | all of us. We all get tarnished, and we have an opportunity
10 | here that is amazing. I mean, I know, just as a Maryland
11 | citizen, citizen of Maryland my entire life, I have always
12 | been utterly just disgusted at some of the things that have
13 | gone on in the fisheries side of things.

14 | And for the first time I can be optimistic, maybe
15 | because I am on the inside in a way and I am a little closer
16 | related to what really goes on. I have met some of the people
17 | who make these decisions and I have faith in them.

18 | But, you know, it is easy to be optimistic from the
19 | inside, and we all need to work hard on positively affecting
20 | the public image of this fishery system because we are a part
21 | of it, like it or not, and it is a system that needs to exist
22 | to manage our fisheries.

23 | I don't expect us all to agree, but I expect us all
24 | to kind of rise to a level of respect that the system deserves
25 | because we are all expected to represent groups, and we should

1 all do it in a respectful manner because I don't think anybody
2 here ever should really -- has malintent in the way they
3 operate.

4 And we all probably share a pretty positive goal and
5 we want to do better things for the fisheries. So if we do so
6 in a respectful manner, I think we will all be better off in
7 the future and leave something better than what we started
8 with.

9 MR. GRACIE: You get the next to the last word.

10 (No response)

11 MR. GRACIE: I just want to say one other thing on
12 behalf of the commission, and I haven't heard -- you mentioned
13 that today, Tom. If you are able to achieve the cost recovery
14 with general funds, that doesn't necessarily assure us that
15 recreational fishing isn't subsidizing this effort. So I
16 think what you need to show us, if you do it that way, is that
17 there has been no decrease in general funds for recreational
18 fishery as a result of that.

19 That is part of my desire to have the budget
20 clarified. Brandon?

21 MR. WHITE: Can I follow up on that, because I think
22 it is a great point, Jim, and when, Tom, you say that the
23 department says that some of the money for the certification
24 of the commercial fishery isn't rec funds, I could make a
25 really good argument that moving money around in an accounting

1 line item does exactly what Jim just highlighted, is that for
2 you to say, or whomever -- not you, I see, Tom. You are
3 delivering the message.

4 But for the department to say it is not commercial
5 money. We are now using general funds. I would argue that
6 those general funds are potentially recreational funds because
7 now it is disproportional. And I know you are working on
8 that. And I know that I am critical. And I know that I am
9 hard, and I think it is great that we have made all this
10 progress.

11 But we are -- we still have a way to go, and I am a
12 driving person so I am not going to let up ever because I want
13 to be great, not good. And if we are ahead, I want to stay
14 ahead and be far ahead. But it is a really weak argument to
15 say that the general funds -- we are now using general funds
16 and they are not rec funds because anyone could make a really
17 good argument that those are rec funds. So I think that just
18 to highlight what Jim says, I think it is really important.

19 MR. GRACIE: That, by the way, is not the test that
20 I put forward. I said show us that there is no decrease in
21 general funds for recreational fisheries.

22 MR. WHITE: I wasn't making a test, I was tying it
23 back to a point that I made earlier, which was an example.

24 MR. GRACIE: If you recall, Brandon, when we had the
25 first small conference call before the whole commission was

1 involved -- you and Tom and I -- in July before the conference
2 call with the whole commission to get your question answered.
3 I raised that point then, and I am still raising it.

4 MR. WHITE: And I am acknowledging that. I am
5 agreeing with you. And I was just using this specific
6 example. That example could be used in a plethora of
7 instances.

8 MR. GRACIE: In case everybody doesn't know it,
9 there was a brief conference call before the commission call
10 after Tom had done the analysis and came back and said the
11 answer to Brandon's question was, which was raised at a
12 previous commission meeting, was that, yes, recreational
13 fishing funds were being used for tags. And he discovered
14 that and said it is not going to happen anymore.

15 After we had that conversation and Tom wanted to put
16 forth his plan, I said I would like to involve the whole
17 commission in a conference call for that. Just so you know
18 how that evolved.

19 MR. O'CONNELL: Move forward?

20 MR. GRACIE: Yes, thank you. Move on.

21 (Slide)

22 MR. O'CONNELL: All right, so the last part of the
23 presentation is getting into the results of the cost recovery
24 so, you know, the question is, you know, how is cost recovery
25 defined? And for this exercise, what we defined it as was it

1 was the amount of nongeneral funds needed to cover the
2 operating costs for each management sector.

3 Now we examined this at two levels. The first level
4 was looking at just the user fees that are collected within
5 the sector, and secondly, the user fees in other nongeneral
6 funds within each sector.

7 (Slide)

8 So these are the different funding sources, so when
9 you look at the source of the user fees, for recreational
10 fishermen, it is the state license and there is a federal
11 excise tax on sport fishing equipment, whose money gets
12 collected and it gets apportioned to the states.

13 For commercial fishermen, it is just the state
14 licenses and surcharges, and for aquaculture it is state
15 permits. When we talk about cost recovery based upon user
16 fees, that is what we are referring to. When we look at cost
17 recovery for all nongeneral funds, it is those user fees and
18 federal funds that we get on a recurrent basis and
19 reimbursable funds from the Maryland Department of
20 Transportation.

21 (Slide)

22 So how we conducted this preliminary cost recovery
23 analysis in -- remember that we had a limited amount of time
24 to complete this analysis because we were using as a basis to
25 calculate potential fees for the commercial license bill. So

1 | what we did was we went through all the fisheries service
2 | employees and we allocated the time based upon recreational,
3 | commercial and aquaculture management sectors.

4 | We then looked at those percentages and allocated
5 | that across the operating funds -- I am sorry. Let me back
6 | track. So we did that. The second thing we did was we
7 | allocated the special funds, the federal funds and the
8 | reimbursable funds to each of the management sectors.

9 | So for commercial fishing, we collect about \$1.6
10 | million of special funds. That was credited to the commercial
11 | side. Federal funds -- if it was a federal fund specific to
12 | commercial fishing, it was credited toward that. Federal
13 | funds in regard to the sport fish excise tax, that was
14 | credited according to the tidal and nontidal recreational
15 | fisheries.

16 | And then the end result was the preliminary
17 | percentage of cost recovery and how the general funds would
18 | need to be allocated to cover the management costs for each of
19 | those management sectors.

20 | (Slide)

21 | So some important points: I wanted to stress very
22 | clearly this is a preliminary cost recovery analysis. We are
23 | initiating a more comprehensive analysis that will be going
24 | through our operating budget on a line by line item. And we
25 | are also needing to look at funds that are provided to other

1 units.

2 Fisheries service provides funds to licensing. We
3 need to get information from them to determine how their work
4 with those funds is used toward recreational/commercial
5 fishing so we can allocate those funds accordingly. And the
6 cost recovery numbers will change, but we don't expect the
7 conclusions will.

8 (Slide)

9 So here is a draft that tries to capture the
10 results. You can see the three management categories:
11 recreational, commercial and aquaculture. And from this you
12 can get a sense of what -- the light blue is what our cost to
13 manage those fisheries is. And the dark blue is the
14 nongeneral fund revenues that go toward paying for those
15 costs.

16 So if you look at cost recovery based upon all
17 nongeneral funds, that first row there. That is the user
18 fees, that is the federal dollars, and it is the reimbursable
19 dollars. You would see that the recreational fishermen are
20 achieving a very high level of cost recovery, 93 percent.
21 Commercial, 43 percent; and aquaculture, 22 percent.

22 If you look at cost recovery just based upon the
23 user fees, you can see that the recreational fishery remains
24 at an extremely high level. The commercial fishery drops to
25 20 percent. That is because there are a lot of federal grants

1 that come in to support the commercial fishery's management.
2 And aquaculture also drops significantly, again because of
3 federal grants.

4 I think the focus of these results are with the
5 bottom line. Based upon this analysis, it shows us that only
6 15 percent of our general funds are needed to cover the costs
7 of recreational management, 66 percent of the general funds go
8 toward commercial management, and 19 percent for aquaculture.
9 In regard to aquaculture, you know, we see this as a fledging
10 industry, an industry that needs to have some governmental
11 support to get it going.

12 We expect that cost recovery will be low initially,
13 but over time as these industries develop, they too need to be
14 achieving a higher level of cost recovery.

15 (Slide)

16 So again just some summary points just to reiterate.
17 Again it is a preliminary cost recovery. Based upon this
18 analysis, recreational user fees are not needed to cover the
19 management costs of the commercial fishery. This gets back to
20 the question about the striped bass sustainable certification
21 process. If that recreational cost recovery level is above
22 100 percent, that raises, that would raise some red flags that
23 recreational dollars are going toward commercial management.

24 And that is something that we are going to pay very
25 close attention to as we do this more comprehensive analysis

1 | because it already is at a very high level. Commercial sector,
2 | 20 percent cost recovery if you just look at user fees. 43
3 | percent if you look at all nongeneral funds. And I don't have
4 | to repeat there, but you can see how the general funds need to
5 | be allocated.

6 | (Slide)

7 | And just in closing, the bill that the departmental
8 | is moving forward, as I mentioned earlier, we were hopeful
9 | that it might be possible to have a comprehensive commercial
10 | license fee bill, but the decision was made not to do that
11 | initially.

12 | But instead to have a bill that would provide the
13 | department with the authority to bill commercial fishermen for
14 | the use of tags and handling services by regulation, and to
15 | conduct a summer study with the affected parties on this cost
16 | recovery issue and provide a report with recommendations by
17 | October 1, 2012. And that report would outline the basis for
18 | legislation in 2013.

19 | There is also some additional accountability,
20 | efficiency measures, that pertain to the commercial fishery,
21 | for which there is a handout on. So that bill should be filed
22 | this week. I know that there was another bill that was filed
23 | I think today that pertains to cost recovery.

24 | And, you know, as Brandon echoed and others, you
25 | know, there is a problem. You know, there is a good argument

1 that general funds should be used more equitably among the
2 management sectors. And here is an opportunity with two bills
3 for recreational fishermen and the general public to weigh in
4 on that. So I encourage you to do so if you feel strongly
5 about it. And with that, any questions or comments?

6 ***Questions and Answers***

7 MR. GRACIE: I will open it to questions, but I have
8 one right off the bat. You had the distribution of general
9 fund revenue for fiscal year 2012. I assume that is after you
10 put a stop to buying tags with recreational fisheries money.
11 So in order to know that we haven't lost general fund revenue,
12 you need to compare it to fiscal year 2011 also. Any other
13 questions or comments? Dave?

14 MR. SIKORSKI: I sent an e-mail this morning with a
15 note from Trent Zivkovich, CCA's government relations chair,
16 that discusses House Bill 1173, which I believe is the other
17 bill Tom may have just mentioned entered by Delegate
18 Gilchrist. It is in your packet. Everybody can read it.

19 MR. GRACIE: Gilchrist and Holmes?

20 MR. SIKORSKI: Yes, Gilchrist and Holmes, pardon me.
21 If you have any questions, you can discuss them with myself or
22 Trent or anyone in CCA leadership, and would hope you would
23 look into that bill and possibly support it.

24 MR. GRACIE: Herb Smith?

25 MR. SMITH: Tom, what would be your goal for

1 commercial cost recovery, just percentile range?

2 MR. O'CONNELL: Well, you know, there are a couple
3 different ways, but the one way would be that -- I think it is
4 arguable that general funds could be allocated evenly across
5 recreational, commercial and aquaculture. That is one
6 argument for the use of general funds. And if you do that, we
7 have enough general funds to achieve about 30 percent of our
8 management costs.

9 So therefore the cost recovery level across each
10 sector should be 70 percent. That is kind of how we are
11 looking at it. We look at what general funds we have. If you
12 divide them equally, the sectors need to achieve the balance.

13 Now there could be the argument that your general
14 fund should be used in a manner that gives the state its
15 greatest return on that investment. And you could look at the
16 benefits of recreational, commercial and aquaculture. That is
17 much more complicated. Initially we are looking at it as
18 let's just try to get it even across those management sectors.

19 MR. GRACIE: Val Lynch?

20 MR. LYNCH: Looking at it from a, kind of a
21 30,000-foot level, not down at the fees and details, if indeed
22 '12 budget you have got supplemental money from general funds
23 to cover the commercial expenses by allocating two-thirds of
24 general funds to commercial, if you were to do it, and you
25 acknowledge that is disproportionate but disproportionate to

1 what?

2 Now you just posed, if you divided it equally among
3 the three categories, you would have a different result. But
4 it seems to me if you divided equally among the three
5 categories, you would have an excess of funds on the
6 recreational side. Is there anything that you will be
7 budgeting in addition that would consume those excess funds I
8 will call them for the moment.

9 MR. GRACIE: We could probably help him develop the
10 list. I am sorry, Val. I couldn't resist.

11 MR. LYNCH: There are boat ramps and all kinds of
12 good things that it could be used for, but it seems to me that
13 on the -- again, I am looking at it not from line items but
14 from the whole McGilla. The recreationals pretty well cover
15 themselves with user fees but the other categories need all
16 kinds of supplemental.

17 And is there an argument that the department has
18 that it will in fact support aquaculture, for example, to get
19 it initiated, but it will support commercials well above their
20 user fees in order to sustain the commercial fishery in
21 Maryland or is it the sense of the department to have these
22 things pay their own way at least at some point?

23 MR. O'CONNELL: One of the issues is that we are
24 facing a \$3.2 million budget deficit in 2014. So unless we
25 are able to increase revenues, we are going to have to

1 decrease services, and if you look at the different cost
2 recovery levels, it is difficult to justify decreasing
3 services to the recreational sector, so it would likely come
4 on the commercial side.

5 So, you know, we are trying to sustain this
6 commercial industry but do believe that we need to achieve a
7 high level of cost recovery so that our general funds are more
8 equitably utilized among the management sectors. And the
9 timeline to get there unfortunately is coming quickly with
10 that \$3.2 million budget deficit in 2014.

11 If you are able to increase the commercial fees and
12 collect a revenue of about \$3 million, that would get them up
13 to about the 70 percent cost recovery level. The problem is,
14 just to give you a sense, is that the commercial license fees
15 have not changed since 1994. Recreational license fees have,
16 I think, increased twice in four years.

17 Right now we bring in about \$1.6 million with
18 commercial license fees. If you are trying to get \$3.2
19 million more, you can see the magnitude of increase we are
20 having to look at for commercial license fees. And while we
21 have some ideas on how to get there, it is also -- I think it
22 would be beneficial to look at the summer study to see which
23 fisheries could absorb a higher increase than others based
24 upon the profitability of that fishery.

25 And if we can't get there, we are going to have to

1 | look at reducing services, and that could be a variety of
2 | things, and it could include shortening, closing seasons.

3 | MR. GRACIE: I guess the other concern we have is
4 | the reduction of services makes us very cautious because it
5 | may sound like a reduction in enforcement, which means that,
6 | you know, we lose control. I would like to give everybody
7 | some information about general fund revenue in recreational
8 | fisheries.

9 | Prior to 2007, fisheries management reformat, there
10 | was substantially no general fund revenue going toward
11 | freshwater recreational fisheries. With the increase in
12 | license fee, we asked for a commitment from the governor to
13 | match that with general fund revenue. All of sudden, there
14 | was an input of \$750,000 in the general fund, which went
15 | directly to recreational fisheries.

16 | So when I look at those numbers up there, that 15
17 | percent, what is the total general fund revenue in fisheries,
18 | Tom? Is it \$4 million?

19 | MR. O'CONNELL: About \$5 million.

20 | MR. GRACIE: \$5 million. So that -- the 15 percent
21 | is that \$750,000. So there was -- the general fund in the
22 | past was primarily supporting commercial fisheries. So the
23 | general fund input to recreational fisheries is something that
24 | is recent, and is a result of our 2007 license fee increase.
25 | So just keep that in perspective. We weren't getting general

1 funds before that. And now we are going to fight to keep
2 them. Dave Sikorski.

3 MR. SIKORSKI: At this point, Tom, didn't I hear at
4 the tidal fish meeting that the enforcement funds were
5 essentially because of the amount of time it has been given to
6 analyze this? You basically said -- you gave 50 percent of
7 NRP expenditures to commercial and 50 percent to recreational,
8 and there is going to be an effort to try and go through that
9 a little more accurately in the future?

10 MR. O'CONNELL: Yes, at the Tidal Fish Advisory
11 Commission, the tidal fish commissioners gave the argument
12 that the reason the commercial costs are so high is because of
13 all our regulations and how much enforcement needs to be
14 expended on that. And my response to that was, how we did
15 this analysis for the Natural Resource Police money that we
16 used, it was divided half and half, 50 percent commercial, 50
17 percent recreational.

18 And, in fact, if we were expending more time and
19 money on commercial, these numbers would look worse than they
20 do now. That is one of the things we are doing with the more
21 comprehensive analysis is trying to get information from NRP
22 and the holiday -- they code their time when they are on the
23 water, and we are looking at those percentages so we can apply
24 more real percentages than our assumption 50/50.

25 MR. GRACIE: One other comment for you, Tom, just

1 | because you mentioned several ways you could look at this.
2 | From the recreational fishing perspective, an equitable way to
3 | distribute general funds would be proportional to the special
4 | funds you are getting from those groups, which would mean the
5 | lion's share would go to recreational.

6 | So I mean that is another perspective on that, that
7 | I don't think you mentioned. I think it was Larry and then
8 | you, Brandon.

9 | MR. COBURN: Larry Coburn. I am assuming that you
10 | couldn't really increase the commercial fisheries license and
11 | get to that 70 percent, correct? I mean, I am just bringing
12 | that up.

13 | MR. O'CONNELL: Well, that is something that we are
14 | striving to achieve through this summer study.

15 | MR. COBURN: Well, okay.

16 | MR. O'CONNELL: Just to give you an example, again,
17 | the commercial fees have not increased since 1994. For
18 | someone to fish recreationally in the state of Maryland, you
19 | end up spending about \$50, nontidal and tidal. A commercial
20 | hook-and-line license, which is a limited access fishery for
21 | public trust resources is \$37.50.

22 | If you look at what Maryland's license fees are
23 | commercially to Virginia, we are way below them. So I think
24 | there is good justification for increasing those fees.
25 | Another way to look at it is the dockside value of our

1 commercial fisheries is about \$75 million, and the license
2 fees is about 2 percent of that.

3 MR. COBURN: Well, I am just going to throw this out
4 on the floor as just food for thought. If you are in the
5 retail business, and you go to malls, and you want to rent a
6 spot in the mall, you rent the place and you pay a rental fee.

7 But they have a clause in their contracts, believe
8 it or not, that if you do \$250,000 a year, anything over that
9 \$250,000 you get a little tax put on that. So what I am
10 sitting here thinking is you got these commercial guys out
11 here taking a free resource that you can allocate in some way,
12 shape or form so they can make a reasonable living.

13 And say if you catch X, Y, Z shares, that gives you
14 X, Y, Z income, anything over that you catch -- and I know
15 there are some people probably catching 10-fold versus one guy
16 over here -- you get taxed a certain percentage for the
17 overage of that average income of the lifestyle.

18 Food for thought, because if the guys over here, he
19 is allowed to catch 50,000. And he catches 49.5, he is making
20 a decent living according to what the resources allows him to
21 make on it, or the retail market or wholesale market.

22 But if you got a guy over here catching 400,000
23 pounds, he is a fat cat. And if you say, okay, you can catch
24 up to 100,000 pounds on this license fee. But anytime you go
25 over that -- you start catching 200, 300, 400 and 700,000

1 pounds, we are going to take an 8 percent tax fee of that
2 catch because you are using a public resource. Food for
3 thought, but I will leave it there.

4 MR. O'CONNELL: Yes. You know, it is an idea of
5 kind of using a landings tax. If you are going to go with a
6 landings tax, you need to be sure that your harvest
7 accountability is good because at that point there is an
8 incentive for underreporting.

9 MR. COBURN: I mean, you are issuing tags, you are
10 making them check it in to these restaurants and all this
11 stuff. I am just saying that it would pay itself in long
12 term --

13 MR. SMITH: If you had control over that.

14 MR. GRACIE: Brandon?

15 MR. WHITE: So I just want to ask you actually, Jim,
16 because that was really news to me that the general funds
17 weren't for rec, so essentially rec has been paying their way
18 a really long time, had fee increases and the general public
19 has been supporting a for-profit industry. So shouldn't the
20 take away be that we at least get equitable distribution of
21 those general funds if not more?

22 MR. GRACIE: I think he should agree with you on
23 that.

24 MR. WHITE: I just wanted to make sure I understood
25 that, and that was basically what you were summarizing --

1 MR. GRACIE: I thought it was important for people
2 to understand that.

3 MR. WHITE: -- because I think that is crazy.

4 MR. GRACIE: Okay, are we finished with this? We
5 are out of time, so did you have anything else here, Tom?
6 That was it, right?

7 MR. O'CONNELL: Once the bill is filed, we will send
8 it out to the commission.

9 MR. GRACIE: We expect that to come out any day,
10 right?

11 MR. O'CONNELL: Yes.

12 MR. WHITE: Is that bill going to -- have you had a
13 chance to review that bill, the CCA? I mean, can people
14 support, can both go through or does it have to be one or the
15 other?

16 MR. O'CONNELL: I think people can support both.
17 You know, the department's bill is kind of, you know, you go
18 into a summer study to try to come up with the best answer.
19 This bill that Dave mentions begins to establish what that
20 cost recovery threshold should be at 90 percent commercial
21 fishery.

22 MR. GRACIE: That is not the wording that came out,
23 is it? 90 percent?

24 MR. O'CONNELL: Yes. And it sets forth a timeframe
25 that if it is not achieved by a certain level, then the

1 department shall close or reduce seasons.

2 MR. WHITE: But you are saying, no, Jim, that bill
3 also says equitable distribution of general funds if you
4 haven't read that bill.

5 MR. GRACIE: Right, I knew that was part of it. I
6 thought they were going to stop at that and have an equitable
7 cost recovery.

8 MR. WHITE: I think the issue there -- having maybe
9 some insight on that --

10 MR. GRACIE: My concern was that if you separate the
11 recreational sectors, then you don't meet cost recovery with
12 freshwater recreational fishing.

13 MR. O'CONNELL: And the bill right now only applies
14 that 90 percent to the commercial fishery, and only to clams,
15 striped bass, oysters and crabs.

16 MR. WHITE: It is only commercial industry and --

17 MR. GRACIE: The original wording I saw was any
18 fishery that doesn't meet a 90 percent cost recovery would end
19 by July 1st, 2012.

20 MR. WHITE: That is not what that bill says. That
21 bill says commercial fishing only, exactly what Tom says.

22 MR. GRACIE: I was going to have to go to
23 Pennsylvania to fish for trout.

24 MR. WHITE: I think that concern was understood in
25 drafting the bill.

1 MR. GRACIE: Good. All right, shall we move on
2 then? We have a legislative/regulatory update? Sarah, you
3 are doing that? Thank you.

4 ***Legislative and Regulatory Update***

5 ***by Sarah Widman, MD DNR Fisheries Service***

6 MS. WIDMAN: (away from microphone) In your packet
7 you guys should have gotten the generic, normal regulatory
8 update of where everything is that is in the hopper already.
9 I don't know if you have had a chance to review that or not
10 since we sent it out ahead of time. Are there any questions
11 on where things are that are already proposed?

12 (No response)

13 MS. WIDMAN: We are good on that? So we are still
14 in our hiatus right now that we can't submit regs, and I think
15 Friday is the first day back to submitting regulations so we
16 will have some stuff moving again soon.

17 Moving on then, I want to get you -- I didn't see
18 that you guys had it in your handouts so I brought two
19 handouts. One is just -- if you didn't see the press release
20 that went out on our new scoping process we talked about with
21 all you guys. And then the latest version of upcoming regs
22 that we will be scoping in ---.

23 So the press release just kind of goes over what we
24 already talked about I think it was at the November meeting,
25 that we really want to get back to a system where we are doing

1 a whole bunch of stuff but we are kind of tailoring it for
2 each individual package.

3 So I guess -- and I know, I apologize that you guys
4 are getting it today. Take your time in looking at it, and
5 feel free to call me after the meeting with comments,
6 questions or whatever. But I wanted to make sure you guys had
7 the latest, up-to-date version. All of the things on this
8 upcoming regs list are on our website, so they are up on the
9 normal draft page like we normally do for public feedback.

10 In addition to that, as we are getting ready to
11 submit proposals and whatnot, we will be trying to use more of
12 the Facebook and the Twitter and the social media sites a
13 little more. Incorporate that into our scoping process. So
14 you will be seeing that. And then I guess just -- if you want
15 to look through them and feel free to contact me later too if
16 you want to give me more comments after the meeting.

17 But we are also kind of looking at which of these do
18 we want to have a public meeting or an open house or some sort
19 of public forum in addition to any online activity or
20 nonpublic meeting activity we would have before proposing
21 them.

22 And some of the ones that we got from tidal fish or
23 from our own staff have been -- for example, the horseshoe
24 crab, summer flounder and black sea bass, we are already going
25 to have a meeting next Tuesday out in Ocean City with the

1 industry on those. So those we are having meetings on.

2 Clams, there has not been any input back from us
3 about having open meetings on applying the NSSP requirements
4 we have for oysters to them. We may get that request. Gear,
5 we definitely are going to have some public meetings. We want
6 to have more dialogue with both sport fish and tidal fish on
7 having an overall gear chapter that would incorporate some of
8 the law changes from last year that gave us a broader gear
9 authority.

10 Pilot programs: This is just giving us some
11 authority to look into the ability to do pilot program,
12 basically a structure for that process. We did them in mostly
13 commercial fisheries. That is where it is coming from.

14 Restitution is something that the penalty workgroup
15 is looking at right now, and I would anticipate that we would
16 have some -- I would like to have some sort of public open
17 house just in general going over penalties and any restitution
18 ideas that we come up with because we haven't really done that
19 with the public yet.

20 So there definitely would be some sort of --- more
21 of an open house educating everyone and getting feedback on
22 the current process and processes we would like to institute
23 as far as penalty stuff. Fishery management plans are just
24 updates to those plans, so anything significant we will have
25 done there will be brought back to you guys.

1 We have a housekeeping reg. We don't really need a
2 public meeting as far as I am concerned. It is just to put a
3 reciprocity agreement back in the reg where it should be.
4 Spiny dogfish I think might actually be talked about a bit
5 among the commercial industry at that meeting next Tuesday.
6 There may be additional meetings on that.

7 And then inland fisheries -- the main changes we
8 have for 2013, staff gave me the feeling that maybe they
9 weren't significant enough to have a meeting for just the ones
10 you have listed here. If you guys have any differing opinions
11 on that, we would love to hear them as we are trying to figure
12 out how to maneuver in the new scoping process. Questions,
13 comments, Maryland scoping process?

14 *Questions and Answers*

15 MR. GRACIE: Yes. Penalty workgroup, is there a
16 name or e-mail address or something to whom comments should be
17 addressed if you have input on that? I am concerned that the
18 wording in this -- it says restitution will be based on
19 stocking costs for nontidal fish.

20 Some people might think that wild fish should have a
21 higher value than the stocking costs of those fish so I
22 think -- for example, if you have native brook trout, which
23 are a species in need of conservation, they should be worth
24 more than the cost of stocking one trout.

25 MS. WIDMAN: So where we are at with that, to fill

1 | you in, is that we started working on a draft that would
2 | incorporate, in addition to a baseline of a stocking cost for
3 | a freshwater fish, it would also elevate that if there are
4 | socioeconomic importance in the state or historical, cultural,
5 | things like that. Ecosystem importance --

6 | MR. GRACIE: So you are considering that already.

7 | MS. WIDMAN: Yes. We are considering that. We are
8 | working on a final draft that we want to bring back to them,
9 | and whatever we would come up with there I would send out to
10 | you guys to look at as well.

11 | MR. GRACIE: The workgroup is based on members of
12 | the two commissions, right?

13 | MS. WIDMAN: Right.

14 | MR. GRACIE: Yes, so obviously it would come back to
15 | us. Okay, thank you. Yes, Ray?

16 | DR. MORGAN: Ray Morgan. I have a quick question on
17 | the river herring, which was effective in 2011. How do you
18 | handle the Potomac River? In the case of Maryland, I realize
19 | on the Maryland side you are okay. On the Virginia side,
20 | there are a number of streams that go up into Virginia that
21 | are not any longer tidal where the herring can go up to spawn,
22 | and how is that handled in the Potomac River? Is that under
23 | the Potomac River Fisheries Commission?

24 | MS. WIDMAN: That would be under PRFC. Tom, do you
25 | happen to know --

1 MR. O'CONNELL: If it is in the main stem, it is the
2 Potomac River Fisheries Commission. If it is in the
3 tributaries on Maryland's side, it is Maryland NRP. If it is
4 the tributaries on the Virginia side, it is Virginia law
5 enforcement. Fortunately Virginia, Maryland and the Potomac
6 River Fisheries Commission have all adopted a no-possession
7 rule.

8 DR. MORGAN: Okay, that is what I was getting at.
9 Thank you.

10 MR. GRACIE: Anything else?

11 (No response)

12 MR. GRACIE: Thank you, Sarah.

13 MS. WIDMAN: I just have, really quick, I am handing
14 you guys out the latest version of the leg update that is from
15 this morning. So it is just the rundown of -- and this is
16 being updated off of our regulatory page and the leg update
17 page, so we are trying to do it every week, week and a half to
18 have kind of an update of where everything is in the hopper
19 during session that has to do with fishery stuff that you guys
20 might be interested in.

21 So this is just a rundown of, as of this morning,
22 what has been submitted, and as Tom pointed out, there will
23 probably be a lot more coming in this week as the drafting
24 people downtown are wrapping up their work. Questions on
25 anything with legislation?

1 There are not too many fisheries bills yet. There
2 are some banning shark fin sales in the state, having NRP
3 removing abandoned fishing nets within a day of being
4 reported. There was a new one this morning that wouldn't let
5 commercial license holders hook and line for striped bass and
6 catch crabs at the same time. I am not sure where that is
7 coming from.

8 The bill on the recreational/commercial fishing fee
9 that you were guys were just talking about came in this
10 morning. I think those are the -- there was one on how we
11 determine public shellfish fishery areas, standards for that.
12 Those are the main fishing ones we have in right now. And
13 again, I would be happy -- if you guys have questions about
14 them after, I would be happy to answer them.

15 MR. GOLDSBOROUGH: Yes, I wanted to ask a question
16 about, I guess that is House Bill 478. Actually,
17 Mr. Chairman, would it be all right for me to ask a question
18 of Lt. Johnson --

19 MR. GRACIE: Certainly.

20 MR. GOLDSBOROUGH: -- about House Bill 478. So that
21 is the removal of abandoned fishing nets. I was just
22 wondering if NRP had any comment on how enforcement would be
23 affected if this were passed, so that if any nets go off
24 bound, any illegal nets had to be removed in 24 hours.

25 LT. JOHNSON: (away from microphone) I can talk to

1 people who can adequately answer that and I will get back with
2 you, okay?

3 MR. GOLDSBOROUGH: Okay.

4 MR. GRACIE: Would you expect NRP to testify on that
5 bill?

6 LT. JOHNSON: I can walk right upstairs right now
7 and get an answer for you, okay?

8 MR. GRACIE: Anything else?

9 MS. WIDMAN: That is it.

10 MR. GRACIE: Thank you. Don Cosden, you are on.

11 ***Inland Fisheries***

12 ***by Don Cosden, MD DNR Fisheries Service***

13 MR. COSDEN: So you guys might have heard Marty
14 mention at the beginning of the meeting that we will be
15 hosting the Bass Roundtable. It is an annual informational
16 meeting that we do every year. This is focused mainly on
17 tidal bass fisheries. We will be hosting this on the 28th.

18 MR. GRACIE: Of February?

19 MR. COSDEN: February, sorry. And depending -- we
20 are asking people to RSVP. We send out invitations to many
21 people. We had a long list of people who have participated in
22 the past, who we distribute other bass information to, and
23 depending on how many RSVPs we get, we may have to move this
24 either over to the church here right around the corner or some
25 other venue. We don't have this room available to us.

1 So we will let you. Know. We will keep you updated
2 on that. On that agenda, we had a number of things.
3 Typically we update people, folks on the status of populations
4 of bass in tidal rivers in the fishery. We also are going to
5 be talking about this potential proposed regulation to
6 register bass tournaments, and if you folks have looked online
7 we have that comment board, an explanation of what that is all
8 about, and the comment board online.

9 And it has been, I think, really successful. We
10 have gotten a lot of folks to comment on that. They are
11 commenting back and forth to each other in a fairly nice
12 manner, even when they disagree. And that is really what we
13 want.

14 We want to get this conversation going between each
15 other as well as us so we can hear anything that we haven't
16 thought about. --- of a regulation that would register all
17 bass tournaments, including nontidal, not just tidal waters
18 but nontidal waters as well.

19 I think we talked about this previously, but this
20 has probably two main purposes for us, to have an accurate
21 estimation of how much tournament activity is going on, an
22 accurate count of fish that are being weighed in, how many
23 fish are being moved to tournament locations. And then to be
24 able to work closely with particularly larger tournaments on
25 handling, fish handling and release techniques to minimize

1 mortality as much as possible.

2 One thing that recently -- we sent this agenda out
3 last week and we added an item on there that we just learned
4 about a week and a half ago, and that is potential legislation
5 to reduce or change the spring tidal bass fishery to a
6 no-possession fishery. Right now it is 15-inch minimum size
7 limit, which actually protect the majority of the adult bass
8 that are spawning in the springtime on the beds.

9 But this potential legislation is being drafted by
10 Senator Glassman whose district is Harford County, Cecil
11 County, the upper bay. And we met with Senator Glassman on
12 Friday and had a discussion about what was behind it.

13 It turns out that he has some constituents who
14 are -- have serious concerns about springtime bass fishing,
15 particularly tournament fishing, which does move fish,
16 sometimes off of nests or away from spawning areas when they
17 are staging the spawn.

18 And they potentially feel that this could impact
19 populations. We -- I am going to pass these around. This is
20 a copy of just a really quick bullet list of our position on
21 this right now, and I think we had a good meeting with the
22 senator.

23 Basically what we discussed was we see a pretty
24 stable bass population, particularly in the upper bay and the
25 Potomac, and there is a number of reasons why we don't think

1 we are impacting populations right now by fishing in the
2 springtime.

3 And we are drafting a more technical document, which
4 really has some specific population parameters that we have
5 measured, as well as looking at overall the -- why spring
6 fishing wouldn't be impacting these population. I think the
7 senator accepted our information pretty well, and he has not
8 introduced his legislation yet. He has asked us to follow up
9 with information as well as sending information to some of his
10 constituents. So that is about all I can tell you right now.

11 *Questions and Answers*

12 MR. GRACIE: He didn't assure you that he wouldn't
13 introduce legislation.

14 MR. COSDEN: No, no, no assurances. I think he is
15 accepting our analysis that we are the experts as opposed to
16 his constituents, his fishermen, but he wants us to follow up
17 and try to reach out to them too, and in that regard, we are
18 going to send him a letter.

19 Hopefully I will get it out within the next day or
20 two, which will announce that this meeting is coming where we
21 will be discussing this very thing. Hopefully his
22 constituents can get to that meeting and talk to us. We have
23 had the same concern from a couple of the guys, notably Ken
24 Penrod, who guides on the Potomac. And we have talked to
25 Mr. Penrod, and he is coming to this meeting as well.

1 So I expect this to be the big topic of conversation
2 at this meeting. But this is it. This is something that we
3 need to have all the groups sit down together and look at the
4 information that we have, and try to come to some
5 understanding about where the populations are and what the
6 threats are to the population.

7 MR. O'BRIEN: Yes, going to these fishing shows, you
8 hear a lot of snakehead stories, and their effect on the bass
9 population. How do you assess that right now?

10 MR. COSDEN: We don't have any way of assessing the
11 actual impacts. We are looking at bass populations, and so
12 far we have not measured any impacts in the Potomac River,
13 even though snakeheads have become really abundant in the area
14 where bass populations are centered.

15 Potentially this could be another stress and another
16 factor that reduces that population through competition,
17 predation, and we are looking at, still looking at the
18 snakehead population expanding, and time will tell. That is
19 something that would be very difficult to address, so
20 potentially if there are negative impacts, the only way we are
21 going to stabilize populations would be through fishing
22 regulations.

23 Unfortunately it always comes back to the fisherman,
24 whether it is land use or invasive species. So anyhow we will
25 have a more technical document that we can send to the

1 commissioners when that is available that explains the
2 rationale behind where we stand right now.

3 ***Update on Management of Recreational Activities***

4 ***on the Upper Gunpowder River***

5 The other thing I wanted to update the commission on
6 is a motion last fall. You had information presented to you
7 about this potential overuse on the Gunpowder River, and the
8 commission at that time made a motion that we limit the use of
9 the Gunpowder and the catch-and-release area to those uses
10 that are compatible with fishing since it is designated as a
11 special management area.

12 At that time it was also pointed out that this was
13 in wild lands, and commercial use such as this is not
14 compatible with the wild lands statute. So we called a
15 meeting with all the units that manage wild lands in DNR, and
16 in particular the regional managers for state parks at
17 Gunpowder to discuss both of these issues.

18 That meeting was in December, and what came out of
19 that meeting generally was that the wild land statutes
20 definitely were contradictory about commercial uses, but the
21 folks that manage these wild lands were in agreement that
22 certain commercial uses seem consistent with the vision of
23 what a wild land is supposed to be.

24 And part of that statute says that these are
25 satisfied for the use of people, and if things like one-on-one

1 or small group guiding for fishing or other nature activities
2 facilitates that use, the unit managers felt that this was
3 consistent with what wild lands was all about.

4 It was recognized that these things can get out of
5 hand, and when they start getting to be a situation like the
6 tubing use, where it is hundreds of people on a weekend, that
7 is not consistent with wild lands. We are looking at drafting
8 new language to allow the limited commercial use such as
9 guided use within the wild lands, but the actual management of
10 these areas are really left to the individual units.

11 That includes park service that manages some, fire
12 service, wildlife -- and so each individual unit will control
13 these activities through their permit process in regard to any
14 commercial activities that go on. In regard to just
15 individual private use that may get out of hand, right now
16 there is no mechanism for controlling that beyond the
17 management authority that each unit has for the properties
18 that they manage.

19 And so they -- in the case of park service, we feel
20 like parks does have the ability to control this overuse, even
21 if it is private. Right now in the case of the Gunpowder, it
22 is a -- the commercial use permits have been, the one permit
23 that was given out has been canceled. That is no longer
24 available.

25 And within that wild land, there is really a general

1 cap on overall use. It is limited by the amount of parking
2 that is available there. We feel like, or at least park
3 service feels like right now that is going to limit the use of
4 the parks, that wild land within that park, to an acceptable
5 level. I guess time will tell though. So that is the bottom
6 line of where we stand with that.

7 I should mention that there is discussion within the
8 department as to whether there should be some wild lands that
9 are not open to any commercial use at all, and that discussion
10 we have not had yet, so this is an ongoing discussion.

11 MR. GRACIE: Carol?

12 ***Questions and Answers***

13 MS. STEVENSON: Hi. Carol Stevenson. Don, thank
14 you for the update and for discussing all of this with us
15 earlier. I am still concerned about the use of private
16 equipment there on the Gunpowder River, and I still disagree
17 with the DNR and park assessment that the parking is going to
18 limit the usage.

19 And we discussed the possibility of having state
20 highway mark off the areas along the roadside because they are
21 using not just the small amounts of parking that park
22 maintains, but they are using the open highways, especially
23 down at Hillbilly Beach.

24 And I did go to the State Highway Administration and
25 I asked them if they could in any way limit the parking along

1 the street on York Road toward Hereford and up the hill from
2 Hillbilly Beach, which is the biggest offender. The people
3 there are the biggest offenders. And they said unless there
4 is a change in the regulation, there is no way that they can
5 mark off that roadway or extend the no parking zone up that
6 street because there is, in their opinion, no line of sight or
7 safety hazard. And I disagree with that.

8 So I am kind of at a stalemate there, and I would
9 need to work with you and maybe parks.

10 MR. COSDEN: So this is within the park, within the
11 wild land itself?

12 MS. STEVENSON: This is -- within the wild land is
13 down at York Road. It is the only one I can deal with now,
14 but that is the second, after Monkton and the Big Falls Road,
15 that is the area that is the biggest problem now because
16 people are bringing the private tubes in, in the summertime,
17 and extending their parking all the way up the hill, and there
18 doesn't seem to be any way of limiting that.

19 So that precludes any fishing or any other
20 activities down there from Hillbilly Beach until the Big Falls
21 area.

22 MR. COSDEN: Well, I have been e-mailed by
23 Mr. --- , who is the one who actually presented some of the
24 materials to the commission in the fall. And he has requested
25 that we pull together a meeting with us, with park service.

1 Mr. --- has also talked to Baltimore City, and they have a
2 watershed enforcement division who has a few officers, and one
3 of their officers has said that he will be available this year
4 to enforce possible regulations on the rivers.

5 So along with the county police and park service,
6 perhaps in another month or couple of months we can pull this
7 meeting together, and that can be part of that discussion.

8 MR. GRACIE: Carol?

9 MS. STEVENSON: Thank you. I know that Captain Lou
10 Brackett from the watershed police is going to be engaged in
11 this, and that was very encouraging. We had contacted his
12 office last year about this, and they were not able to do it
13 at that time because they were working on Loch Raven, I guess.
14 Loch Raven and the all-terrain vehicles were a real issue down
15 there. So he is willing now to move his effort up there.

16 Which, in conjunction with the precinct police, the
17 Baltimore police, and the Natural Resources Police, might be
18 able to do something with the alcohol on the water but still
19 can't stop the volume of traffic coming in to Hillbilly Beach.
20 And the only way you can prevent that or curtail it is to try
21 to block off some of the parking up there.

22 MR. COSDEN: That is --

23 MS. STEVENSON: It is encouraging but not enough.

24 MR. COSDEN: Is this access actually on the state
25 park property or on the state highway?

1 MS. STEVENSON: It is the state highway. It is on
2 York Road.

3 MR. COSDEN: Well, that is -- yeah.

4 MS. STEVENSON: So I guess I will pursue it with
5 Theo and a couple other people.

6 MR. COSDEN: Yes, and we can be involved in that.
7 Perhaps we need to sit down to talk to highways, along with
8 really the park service, but we can go through the park
9 service and see if we can get them involved in those
10 discussions as well.

11 Finally I just wanted to mention there is a study
12 that is supposed to occur. It came out of a --- Commission
13 report that deals with water supply, water uses and the
14 impacts of water withdrawal mainly on small streams, upland
15 streams and all. That study was to look at the impacts of
16 withdrawing of the aquifers in particular and looking at the
17 biological impacts and overall flow regimes.

18 This was something to be funded by MDE, and we just
19 learned recently that the planning had gone forth to do a
20 five-year pilot study, and as of July apparently MDE says
21 there is no more funding for this. And we are greatly
22 concerned. A lot of these brook trout, remaining brook trout
23 resources that we are looking at are in these small streams
24 that are potentially affected as well as other important
25 resources.

1 And we would ask that you help us advocate for maybe
2 restoring that funding. I am working on a document -- I had
3 hoped to have it for you guys today. It is not available, but
4 I think within the next day I will have something that I can
5 e-mail to the commissioners. They can read up on what this
6 project was designed to do and learn a little bit more from
7 that.

8 MR. GRACIE: What mechanism do you suggest we pursue
9 to get funding restored? Is it a discretionary decision on
10 the part of MDE? Was it earmarked funds that aren't being
11 provided by the legislature or what?

12 MR. COSDEN: I don't know that right now.

13 MR. GRACIE: Okay. You will need to have that kind
14 of information for us.

15 MR. COSDEN: All right.

16 MS. STEVENSON: Can I ask a question on that? Is
17 that related -- okay, you are withdrawing water from the
18 aquifer. Can that be used in -- funds that are used with the
19 Marcellus shale study, especially in Garrett County, can those
20 be combined because they are MDE-funded studies, and it is
21 going to be broadening.

22 MR. COSDEN: No, those are really very different
23 issues that need to be specifically studied different ways, so
24 if there is overlap, there is a possibility that some of
25 amount of data can be shared between the two but at this point

1 I don't think the funding can be -- from one can be used for
2 the other.

3 MR. GRACIE: Is that it?

4 MR. COSDEN: Yes.

5 MR. GRACIE: Is there any news on the Kitzmiller
6 gauge?

7 MR. COSDEN: Yes. As a matter of fact, I have got
8 the signed MOU on my desk. It may be back online by now. I
9 haven't looked. But it is something that --

10 MR. GRACIE: Are you the only -- is fisheries the
11 only USGS partner?

12 MR. COSDEN: Fisheries is the only contributor. We
13 are partnering with the USGS. We are very concerned that this
14 is going to become --

15 MR. GRACIE: We don't want that to happen to
16 everyone.

17 MR. COSDEN: And for now until eternity we are out
18 another \$8,000 to fund this gauge, but this gauge is very
19 important to a number of different units within DNR as well
20 as ---.

21 MR. GRACIE: Trout Unlimited tends to take a run at
22 MDE on this whole issue now that -- see if we can get them
23 back on next year.

24 MR. O'CONNELL: And you know, in regard to long-term
25 funding after this year, talking to the assistant secretary

1 Frank Dawson, we are going to be sending a letter to Joe Gill
2 recognizing the other units that benefit from funding this
3 gauge, and hope that after this year there will be a stronger
4 partnership within the department.

5 MR. GRACIE: Oh, good. Okay. Will you keep us
6 informed of that, by us? I guess I mean the commission but
7 also Trout Unlimited so that -- because we are very interested
8 in the status of gauges all over the state, and there is a
9 very bad trend under way where USGS is losing partners and
10 then dropped the gauges. We have lost five on the Potomac,
11 for example, in the past five years. Any other comments or
12 questions for Don?

13 (No response)

14 MR. GRACIE: Thank you, Don. Are you up now, Tom?

15 MR. O'CONNELL: Yes.

16 ***Estuarine and Marine Fisheries Update***

17 ***by Tom O'Connell and Lynn Fegley, MD DNR Fisheries Service***

18 MR. O'CONNELL: All right, so just the Estuarine and
19 Marine Fisheries Update, even though Lynn Fegley joined us, so
20 she can fill in if necessary.

21 ***ASMFC Summary and Mid-Atlantic Council Upcoming Meeting***

22 In regard to ASMFC and the Mid-Atlantic Council,
23 Mike Luisi is attending the Mid-Atlantic Council meeting
24 today, tomorrow and Wednesday. ASMFC had their winter meeting
25 last week. Some highlights from that meeting were striped

1 bass -- a lot of kudos to the law enforcement committee,
2 including some of the officers from Maryland. And they
3 presented a comprehensive report of their findings of the
4 striped bass investigation in the Chesapeake Bay region, and
5 they went further with providing recommendations.

6 The Atlantic States Marine Fisheries Commission
7 agreed that it would be beneficial to initiate an addendum
8 that would consider making these law enforcement
9 recommendations compliance requirements to the states along
10 the Atlantic coast. So that would be very helpful. Some of
11 the recommendations include requiring all states tag --
12 standardizing the tag types to facilitate enforcement when
13 there is interjurisdictional movement of fish.

14 You know, increasing penalties, including license
15 revocations and suspensions. So it is really good to see the
16 commission grab a hold of this and move it forward. So a
17 draft addendum will be coming back from the commission in May,
18 and if it gets approved it will go out for public comment.

19 Menhaden, where we are along this journey is the
20 board agreed to proceed with sending a public information
21 document out for public review. The public information
22 document would be setting forth the background and strategies
23 that would need to be implemented in order to achieve the new
24 reference points that were adopted in November.

25 Following this public comment period, it comes back

1 to the management board. They look at the public comment
2 information and then put forth a draft amendment for public
3 review. The schedule at this point in time is that the draft
4 amendment would come back to the board in November for final
5 approval. Implementation could be as early as 2013.

6 One of the options in the document right now is a
7 timeframe for achieving the reference points, and that would
8 include from one year to ten years. The ten years was added
9 at this last meeting. I would anticipate the public would
10 respond to that, and that would be helpful for Maryland to
11 keep the focus on achieving those reference points in a faster
12 timeframe.

13 Tautog, you know, we are going to be seeing some
14 pretty significant reductions this year to reduce the fishing
15 mortality. Black sea bass is basically status quo. Of
16 interest is the commission is going to be developing a black
17 drum fisheries management plan. And then we have summer
18 flounder but that takes us into the next agenda item so maybe
19 I will stop there and see if there are any questions before
20 going on to the summer flounder management options.

21 MR. GRACIE: Any questions?

22 (No response)

23 MR. O'CONNELL: All right, Marty, you want to -- I
24 just got a couple slides on summer flounder.

25

1 ***Summer Flounder Update***

2 MR. O'CONNELL: I think some of the take-home
3 messages are that the regulations that Maryland submitted this
4 year are statewide. You may recall a few years ago we had
5 split regulations: Chesapeake Bay, coastal bays.

6 With MRIP coming on board and providing a sampling
7 frame to begin looking at harvest on a finer spatial scale, we
8 may be able to look at an option to split the areas
9 up -- Chesapeake Bay, coastal bays -- again in 2014, but at
10 this point in time we need to stay statewide.

11 (Slide)

12 Summer flounder stock is rebuilt; however,
13 overfishing was determined in 2011, and that is resulting in
14 states having to take some reductions. Fortunately for
15 us -- so in 2011 our target number of fish to be harvested was
16 101,000 fish. The estimated harvest was just under 30,000
17 fish.

18 In 2012 the target number is dropped to 82,000 fish
19 because of the overfishing determination. However, because
20 our fishery has been operating at a much lower level than even
21 that target, we are still in a position this year to
22 liberalize the fishery.

23 (Slide)

24 Some considerations before I show you the options
25 for Maryland is Virginia is considering changes to creel

1 limits, and looking at a 16 ½ to 17-inch minimum size limit
2 open all year. Delaware cannot liberalize but they are
3 looking at staying status quo from last year with an 18-inch
4 size limit and a season of April through October. And the
5 options that the commission approved for Maryland, there are
6 four of them.

7 One is option one, which is the same as last year, a
8 season of April 16th to November 22nd. 18 --- inches, 3 fish.
9 Option two is a season of March 1st through December 31st, 18
10 inch, 3 fish. That would allow us, based upon calculations,
11 to liberalize about 19 percent. So with that option we get a
12 little bit of a longer season.

13 Option three is that same season but we can look at
14 reducing the size limit to 17 ½ inches and 3 fish. That
15 results in a 73 percent liberalization. And option four is
16 going April 14 through November 30th but being able to reduce
17 the size limit to 17 inches with 3 fish and having a
18 liberalization of 91 percent.

19 (Slide)

20 So we are going to be, you know -- obviously we are
21 interested in your input tonight, and we also will be asking
22 the Coastal Fishery's advisory commission for their input.
23 The March 1st date there on options two and three, that is
24 basically -- if we choose those options, we will pursue that
25 as quickly as we can. The effective date will be when the

1 regulations are passed.

2 There is a chance that it could be a little bit
3 earlier than March 1st. There is a chance that it would be a
4 little later than March 1st. It just depends upon when we get
5 the information back from the advisors and when we get those
6 regulations implemented. Lynn?

7 MS. FEGLEY: I want to just -- can I clarify a
8 couple things? I just wanted to -- I am Lynn Fegley. I just
9 wanted to clarify really quick the overfishing projection.
10 What happened there was the most recent stock assessment does
11 not run through 2011, so what they have done is they have set
12 these target harvests for each state in 2011, and if each
13 state had reached those targets, then new calculations show
14 that we would have been overfishing.

15 However, nobody actually made their targets,
16 therefore -- I don't think we are overfishing in 2011, and
17 because nobody reached their targets there is this room to
18 liberalize. So it is kind of a real funky situation. And one
19 of the reasons that I bring it up is because we always have to
20 keep in mind that when the next assessment rolls around, the
21 news might look a little different.

22 And that leads me into my next point, which I wanted
23 to make really clear. The liberalization numbers, those are
24 very hard to calculate. --- likes to call those
25 liberalization numbers an index of risk rather than a hard

1 number.

2 So I just want everyone to be clear of the
3 uncertainty that is around those numbers. And the more that
4 we liberalize, the more chances we have of the next
5 assessment, of having to cut back further if something
6 happens.

7 It is just uncertain enough of a situation that I
8 feel compelled to bring that up.

9 MR. GRACIE: Questions, comments?

10 *Questions and Answers*

11 MR. GRACIE: Ed?

12 MR. O'BRIEN: I thought the conservation equivalency
13 for the bay was back in the picture as an option.

14 MR. O'CONNELL: It isn't for this year, but we are
15 looking with the implementation of MRIP that it could
16 potentially be an option considered for 2014.

17 MR. O'BRIEN: That makes option four look better.

18 MR. SMITH: How many 18-inch flounders do you
19 usually catch in the bay?

20 MR. O'BRIEN: In the last 10 years, probably 3.

21 MR. SMITH: I kind of thought that would be the
22 answer.

23 MR. O'BRIEN: If you could get 16 ½, you know, 16,
24 16 ½, then we would catch a few, but it so improbable that you
25 will catch one that big. From a charter boat standpoint you

1 | can't target them. You will not be able to keep anything.

2 | MR. O'CONNELL: So obviously, you know, we expect to
3 | hear from the bay region. There is obviously -- there is an
4 | interest to lower that size limit because that is the fish
5 | that you guys see more of.

6 | From the coastal side which, you know, catches the
7 | majority of the fish, they are very concerned about exceeding
8 | that harvest target and being penalized, and as Lynn
9 | mentioned, that percent liberalization, that level of risk. I
10 | haven't heard any feedback from the coast yet, but I would
11 | think that that they would probably, you know, be concerned
12 | about going to option four, and maybe looking at option three,
13 | trying to get a longer season, trying to get a smaller fish.

14 | Just to share with you what I expect to hear from
15 | the coastal side.

16 | MR. GRACIE: Val?

17 | MR. LYNCH: I can give you a little bit of input on
18 | the coastal side. First of all, I believe we extended the
19 | season last year to the end of November. We did that because
20 | of Black Friday, because a good deal of fishing ranks with
21 | Black Friday after Thanksgiving. Anecdotal, I did a lot of
22 | fishing with my grandkids this last summer, in the fall, and I
23 | stopped counting at 500 flounder. And for the whole season we
24 | kept two.

25 | And I spoke with Nick Clemente -- many of you know

1 him -- Lonnie and a few others, and the retention limit is not
2 unlike what it is in the bay, maybe a little bit higher.
3 Flounder that are over 18 inches are typically caught off
4 shore, not in shore. And they are few and far between as
5 well, and they are not targeted. They are usually caught on a
6 different type of creel.

7 So I think from the experience that I know, and
8 again, this is anecdotal, undocumented, but from the number of
9 people I have talked with, and from what I have seen on the
10 water in quite a few trips, is that if there were an
11 opportunity to reduce the size limit, the catch would improve
12 and I think the activity would improve. That has its good
13 points and it has got its bad points.

14 It seems to me that particularly in the fall before
15 the weather really cut in late in November, that ever fish was
16 about 17.9 inches, but I would think that a 17-½ inch limit,
17 my opinion, would go a long way to encourage people to get out
18 on the water and spend some time out there.

19 MR. GRACIE: Any other comments? I have a question
20 for Lynn. It appears like we caught 30 percent of our
21 allowable harvest. 29,000 out of -- what was the risk factor
22 that we projected with those regulations? Seems like we are
23 being extremely conservative.

24 MS. FEGLEY: (away from microphone) I honestly
25 don't remember what the risk factor was.

1 MR. GRACIE: It was presented to us. I don't
2 remember that either but --

3 MS. FEGLEY: We can go back in check.

4 MR. O'CONNELL: It was a lower risk option.

5 MR. GRACIE: I am just wondering how much risk we
6 are really taking by moving up to one of those lower sizes.
7 And I guess my other question would be, in option three, would
8 you shorten the season and move that to 17 inches. You got a
9 March 1st to December 31st season. Nobody has asked for that.
10 They have asked for November 30th, they have asked for trying
11 to have it open by Easter.

12 So you could take a couple months off that season.
13 Would that give you a more reasonable liberalization and still
14 get the 17-inch minimum so people could actually keep a few
15 fish?

16 MS. FEGLEY: Sure, that is something we could do.

17 MR. O'CONNELL: We could look into that. I mean
18 ASMFC approves the methodology, so we could run a scenario --

19 MR. GRACIE: Yes, so why don't you do that. It
20 sounds like that would really be a popular thing for
21 fishermen, and if you don't think it is going to give us a
22 great risk of going over our harvest limit, then we should
23 probably do that. Val?

24 MR. LYNCH: Lynn, do you have data on fish caught
25 and kept in by month?

1 MS. FEGLEY: It has been very sparse. That is part
2 of the problem.

3 MR. LYNCH: I would think March and December are
4 minimal.

5 MR. GRACIE: That is why they call them summer
6 flounder. Dave?

7 MR. SIKORSKI: If I remember correctly from last
8 year, reducing the creel really doesn't do much to decrease
9 the realization.

10 MS. FEGLEY: Days are always worth more than size.
11 But a full inch drop is pretty good.

12 MR. O'CONNELL: One way forward, Jim, is to run a
13 scenario like you suggested. I will also let you know what
14 the Coastal Fishery Advisory Committee --

15 MR. GRACIE: Well, it would be good to run that
16 scenario and have that to present to them though when you get
17 their feedback. Otherwise we are all shooting in the dark.

18 MS. FEGLEY: Would you repeat the requested start
19 date? I am sorry.

20 MR. GRACIE: April 15 -- or 14 is what you had for
21 the --

22 MR. SIKORSKI: Weren't you requesting something --

23 MR. GRACIE: And November. Take two months off the
24 season.

25 MR. O'CONNELL: Is that pretty much option four?

1 MR. GRACIE: Yes, that is option four, isn't it?

2 And that gives you 91, so --

3 MR. SMITH: If you move option four, the season, to
4 option three.

5 MR. GRACIE: Right.

6 MR. SMITH: That is what you are talking about,
7 right?

8 MR. GRACIE: Yes. Well, no, I was talking about a
9 way to get to 17 inch. But that is -- what does 91 percent
10 liberalization mean? That means you would project that you
11 would catch 91 percent of your allowable harvest?

12 MS. FEGLEY: That means your -- the total
13 liberalization possible is something like 180 percent, so it
14 is half.

15 MR. GRACIE: No wonder I don't understand this
16 stuff. The total is 180 percent. Herb?

17 MR. SMITH: 180 percent would be the extreme high of
18 the range, correct?

19 MS. FEGLEY: Correct.

20 MR. GRACIE: So you are halfway there with option
21 four.

22 MS. FEGLEY: Correct.

23 MR. SMITH: I mean, Val, you said 17 ½, right?

24 MR. LYNCH: Yes, I said 17 ½, and I would go with
25 the April 14th and the November 30th. So you are kind of

1 hedging between 73 and 91 percent liberalization.

2 MR. SMITH: I think that makes a lot of sense.

3 MR. GRACIE: Dave, did you have a hand up?

4 Sikorski? I will get to you, Mack.

5 MR. SISKORSKI: Yes, I would just say that even if
6 you start a season on March 1st and end it on December 31st,
7 the majority of the fishing is going to happen in the April to
8 November timeframe anyway, so don't get too wrapped up in
9 those dates because for the most part the fish aren't terribly
10 available to a large number of anglers.

11 MR. GRACIE: Mack?

12 MR. WOMMACK: Yes, James Wommack. I would feel
13 option number four. I can't really speak on the ocean side,
14 but I can speak on the lower bay. The 18 inch isn't a problem
15 for us on the channel in the lower bay because of the salinity
16 level. But when you speak about the whole bay, you are not
17 going to get those big flounder to travel like that without
18 the salt level being very high in the upper bay.

19 MR. GRACIE: Okay, so you have got some feedback.

20 MR. O'CONNELL: Yes, appreciate it.

21 ***Update on Maryland's Commercial Striped Bass MSC Certification Process***

22 ***by Tom O'Connell, MD DNR Fisheries Service***

23 MR. O'CONNELL: So an update on the Maryland
24 commercial striped bass MSC certification process. Steve
25 informed me this morning that the contractor says they have a

1 draft report from the peer review group, and that is being
2 reviewed by the contractor, and the client, which is the
3 department, should get a copy of that in March.

4 And after that point, the department reviews it,
5 provides comments back to the contractor. They make any
6 adjustments and then the information was made public. So
7 where we are right now is the department is waiting for an
8 initial report in March.

9 *Questions and Answers*

10 MR. GRACIE: Is that what you wanted, Dave?

11 MR. D. SMITH: Yes. Is there any point during that
12 whole process -- is there a way for us to see any of that?

13 MR. O'CONNELL: Not until -- my understanding is not
14 until after, the department will review with the client, give
15 information back to the contractor, and at that point the
16 report becomes ---. But in between that, Steve advises me
17 that it is not available for public review.

18 MR. D. SMITH: I would argue that maybe -- so the
19 department in the client?

20 MR. O'CONNELL: Yes.

21 MR. D. SMITH: And do you think it is possible that
22 the sport fish commission might be seen as part of the
23 department, or public knowledge or, you know --

24 MR. O'CONNELL: I can ask Steve about that, but I
25 know -- I think he has responded to your question before and,

1 but I can ask him that.

2 MR. GRACIE: What is the basis -- why is that such a
3 restriction? What is it?

4 MR. O'CONNELL: Well, I think Lynn is trying to get
5 Steve so he can answer that question better than I can, but it
6 is apparently part of the process.

7 MR. GRACIE: It is part of a structured process?

8 MR. O'CONNELL: Let's see if Lynn can get a hold of
9 Steve. He will be able to answer that question.

10 MR. GRACIE: Brandon?

11 MR. WHITE: Well, let's just assume that's the
12 process. So then when it does become public, does the public
13 comment or is that the department has already made their
14 decision and that is what is happening?

15 MR. GRACIE: The department doesn't make a decision.
16 It is a certification.

17 MR. WHITE: It has provided its comments and it
18 doesn't get amended by -- what is the process after it becomes
19 public?

20 MR. O'CONNELL: Let's see if Steve can answer that
21 question. I am not positive of that.

22 MR. GRACIE: Okay, we will put that on hold for the
23 moment then. Are you handling the allocation policy then? We
24 will move on and come back to that.

25

Update on Maryland's Fisheries Allocation Policy and Timeline

by Tom O'Connell, MD DNR Fisheries Service

MR. O'CONNELL: Update on the Maryland Fisheries Allocation Policy and Timeline: This has sat on my desk unfortunately for a while. I got comments from Frank Dawson, our assistant secretary. Last night I sent a final draft back to Frank Dawson and suggested he share that with the Secretary and requested that we get that approved by the end of this month.

So, you know, that is still pending secretary approval, but that is the timeline that we have requested.

MR. GRACIE: And when is our next meeting?

MR. O'CONNELL: April 2nd I think. So when that comes final before the next commission meeting

MR. GRACIE: It will be on the agenda?

MR. O'CONNELL: -- we will send it out to all of you.

MR. GRACIE: Okay. Gill net fishery?

MR. O'CONNELL: Marty, are you handling this one?

MR. GARY: Is Matt still here with us? Matt, do you mind going up front?

Update on Maryland's Commercial Striped Bass Gill Net Fishery

by Matt Lawrence, MD DNR Fisheries Service

MR. LAWRENCE: Matt Lawrence. Okay, so I have been asked to give a quick update on the gill net fishery, so I

1 will give you the update from December to now, all the numbers
2 that we have.

3 (Slide)

4 Starting with December gill net, we had about
5 254,000 pounds of quota available for gill net. As Tom
6 mentioned earlier, one of the issues that we addressed last
7 year with the commercial gill net fishery is that we are
8 taking a 5 percent harvest accountability measure, and taking
9 that 5 percent from the available quota. That started in
10 December.

11 That amounted to a little bit under 13,000 pounds.
12 What we are left with was 241,000 pounds for December. There
13 are about 9 fishing days during December, and by the end of
14 the month they had harvested 237,000 pounds. That left 4,300
15 pounds on the table. So we are under 4,300 pounds for the
16 gill net fishery for 2011.

17 MR. GRACIE: Is that with the 5 percent reserve or
18 have you used that, included that in?

19 MR. LAWRENCE: That is included. If you exclude
20 that in the actual total that we started off with, we are
21 about 16,000 or 17,000 pounds under quota.

22 (Slide)

23 Okay, 2012, we actually -- we started the year
24 taking 5 percent off for harvest accountability. So the
25 annual quota for gill net was reduced to just over 800,000

1 pounds. It is about 880,000 pounds for 2011 total. So it is
2 about 800,000 pounds for this year. It was separated into
3 about 300,000 pounds available for January, 380,000 pounds
4 available for February, another 130,000 pounds available for
5 December.

6 So the commercial guys had about 8 fishing days in
7 January. They caught about 290,000 pounds of their quota.
8 There is 5,000 pounds remaining, and that was rolled over into
9 February. During February so far they have had four fishing
10 days: two the first week of February, two last week. They
11 have caught 176,000 pounds. That is leaving about 200,000
12 pounds left.

13 We made the management decision to split the
14 remaining poundage between this week and the last week of
15 February. So they will have two fishing days this week. They
16 will have two fishing days the last week of February. They
17 are averaging about 45,000 pounds of striped bass a day, so
18 that is taking a more conservative approach.

19 It is likely to be if they continue at that pace,
20 there is likely to be about 20,000 to 30,000 pounds remaining
21 at the end of the month, and we will roll that over into
22 December. December there is about 130,000 pounds, so that
23 will leave about 150,000 to 160,000 pounds.

24 MR. GRACIE: I am confused at where you started.
25 You said the total was 880, and the reserve brought that down

1 to 800. That sounds like a 10 percent reserve, not a 5
2 percent reserve.

3 MR. LAWRENCE: There was also some reallocating
4 included with that, so we met with the Striped Bass Industry
5 Workgroup and reallocated a small amount of the gill net quota
6 into the pound net fishery, as requested by the commercial
7 industry.

8 MR. GRACIE: Oh, okay, so you reduced it further
9 because of that.

10 MR. LAWRENCE: Yes, yes. Sorry I wasn't clear.

11 MR. GRACIE: All right. Thank you. Ed O'Brien?

12 *Questions and Answers*

13 MR. O'BRIEN: Anecdotal, and I am not trying to put
14 you in a trap or anything, but, you know, we have guys who
15 work on charter boats all summer through the winter fishery,
16 and then they jump on the commercial boats in Virginia. What
17 we are getting is that the fish are starting up the bay early,
18 and big, big fish.

19 So I don't know just how we are tuning in on that.
20 I am sure in some way we are. What is the size structure that
21 you are seeing as to the commercial fish being caught now, and
22 do you have any witnessing on the boats of what they are
23 having to put back because they are over 35, 36 inches,
24 whatever it is.

25 MR. LAWRENCE: I am not prepared to answer that

1 question right now. I have not done that analysis.

2 MR. GRACIE: Tom says someone might be able to.

3 MR. O'CONNELL: Eric Durell is our striped bass
4 project leader. He might be able to provide some insights.

5 MR. GARY: Hey, Eric, can you step up to the mic?

6 MR. DURELL: My name is Eric Durell, striped bass
7 project. We sample commercial fisheries at check stations
8 about once a week throughout the commercial fisheries. We
9 have not seen this change in the size structure of the stock
10 that Ed speculates about. It does happen. It has happened in
11 the past. We have not seen it yet.

12 I have measured and weighed and taken scale samples
13 from over 1,000 fish so far this month alone, and the fishery
14 still seems to be dominated by 3- to 6-pound fish, and again
15 those numbers are just sort of off the top of my head as to
16 their size, but that is about what we are seeing right now.

17 MR. O'BRIEN: But as far as the bigger fish, I am
18 just trying to get a correlation from what I am -- the hearsay
19 from Virginia, what is working up the bay. If you are just
20 making these observations at the check stations, obviously you
21 don't know what is going back into the water because they are
22 too big.

23 MR. DURELL: The only thing I can say about that
24 is -- no, I agree I don't know what is being discarded.
25 However, they are limited to 5- to 7-inch mesh nets.

1 Generally -- we fish gill nets as you probably know on the
2 spring surveys ourselves, and 7-inch nets, not often catching
3 fish much over 30 inches unless they are tangled. In other
4 words, fish much over 30 inches are not going to gill in that
5 net, however, they are occasionally caught.

6 So again sometimes those fish turn up in the gill
7 net fishery. I have not seem them yet.

8 MR. GRACIE: You mean they get caught in the net
9 without being gilled.

10 MR. DURELL: Without being gilled as you would
11 consider the classic way of a striped bass being caught in a
12 gill net, correct. But sometimes they will tangle in their
13 lip or some other way.

14 MR. O'BRIEN: Last year's fishery, relative to the
15 gill nets --- DNR police recovered, were they five to seven
16 inches too?

17 MR. DURELL: I believe the one in the one instance
18 that I actually saw a piece of net, it was a seven-inch net.
19 So we will continue -- as Matt said, they have gotten
20 approximately four fishing days left. We will be out at least
21 one of the two days in that last week, and we randomly select
22 a check station. We go and we measure approximately 300 to
23 400 fish a night, so -- we will continue then.

24 We may see an influx of larger fish coming from the
25 ocean. It is hard to say. We don't often capture that.

1 Sometimes we do, sometimes we don't.

2 MR. O'BRIEN: Again, it is the source of a lot of
3 consternation among people that are witnessing what is going
4 on in the Virginia commercial fishery. Do we have any
5 observer down there or are there Virginia people that we talk
6 to about that, that we are going to get a straight story from?
7 As Lynn knows, we have been asking about this for the last
8 couple years.

9 I think we have got a commissioner right down here
10 on the end of the table that is well familiar with that
11 fishery.

12 MR. WOMMACK: You aren't going to get the truth out
13 of them, you can believe that.

14 MR. DURELL: No one from there that I interact with,
15 no, sir.

16 MR. GRACIE: Dave Smith?

17 MR. D. SMITH: When you say you go to these check
18 stations and you are measuring fish, is that -- that is the
19 same thing as the audit that we are talking about? The random
20 audit?

21 MR. DURELL: No, that is not. This is a
22 continuation of the regular monitoring that we do every year.
23 And again, we do this for all the commercial fisheries. So
24 that is not anything new. That is something that has been
25 ongoing for years.

1 MR. D. SMITH: Can you speak to audits?

2 MR. DURELL: I cannot.

3 MR. D. SMITH: Who can, Tom?

4 MR. O'CONNELL: Natural Resources Police.

5 MR. D. SMITH: Because I was just going to ask, do
6 we have an idea of how many have been done or --

7 MR. O'CONNELL: Lloyd Ingerson has been leading that
8 project. My understanding is they are working to accomplish
9 at least one random audit A week. I talked to Lloyd a couple
10 weeks ago, and they hadn't had the time to fully do some of
11 the data analysis to see what they are seeing with unscheduled
12 check station audits as compared to what our staff are seeing,
13 what's scheduled. I can follow up with Lloyd Ingerson to
14 confirm that for you.

15 MR. D. SMITH: So right now we are thinking one a
16 week?

17 MR. O'CONNELL: Um hmm.

18 MR. GRACIE: Okay, any other questions?

19 MR. D. SMITH: One more question: One a week, that
20 is just one random audit a week. And how many check stations
21 are there?

22 MR. O'CONNELL: Like about 30.

23 MR. D. SMITH: So not one at each one, just one a
24 week. Okay.

25 MR. JETTON: That doesn't necessarily mean there

1 hadn't been a DNR officer there on his own making the rounds.
2 Is that correct, because I see a lot of that.

3 MR. O'CONNELL: That is correct.

4 MR. GRACIE: Okay, thank you. You are going to do
5 an update on pound net?

6 MR. O'CONNELL: Yes.

7 ***Update on Pound Net White Paper***

8 ***by Tom O'Connell, MD DNR Fisheries Service***

9 MR. O'CONNELL: Not on the agenda, but given some
10 interest, I just want to give a brief update on the pound net
11 white paper report.

12 At the last November meeting, and it has been kind
13 of an ongoing discussion, there has been an interest to, you
14 know, evaluate the pound net fishery, particularly the -- the
15 pound net fishery during the springtime when striped bass are
16 migrating into the spawning areas.

17 At the November meeting, I committed that we would
18 direct staff to prepare that white paper but did not make any
19 commitments at that time because I know the staff already have
20 a heavy workload. Paul Piavis is our lead person that is
21 doing this paper. Paul recently was promoted to Dale
22 Weinrich's spot. Dale retired about a year ago.

23 In getting some information from Paul over the
24 weekend, they had made some significant progress on this, and
25 the senior staff at fisheries are expecting a report from them

1 | probably by the end of this month. So depending on what the
2 | quality of that report is, we might be able to provide
3 | something to the commission definitely by the next commission
4 | meeting and perhaps a couple weeks in advance of that
5 | commission meeting.

6 | Information that they have been looking at, just to
7 | kind of refresh your minds, they are looking at kind of
8 | characterizing the landings for that January through June time
9 | period to see what these fishermen are actually intercepting.
10 | They are looking at the number of licensees, the number of
11 | pound nets within each spawning area section, looking at some
12 | of the biological/ecological interaction with striped bass and
13 | other fish.

14 | Harry Hornick, who leads our striped bass project,
15 | is going to be looking at some of that information. In regard
16 | to the one question about whether or not action -- if action
17 | were warranted, if it would require legislation or regulation,
18 | if it pertains to a biological concern of striped bass, for
19 | example, we can address that through our Striped Bass
20 | Fisheries Management Plan.

21 | So the bottom line is that if it is a biological
22 | issue that relates to a fishery, we can do that through the
23 | fisheries management plan process by regulation. If it is a
24 | user conflict issue, that may require legislation to deal
25 | with, but I think --- biological/ecological issues, so we

1 should have the regulatory --- to address any problems that
2 come out of this white paper that need to be addressed.

3 So that is kind of where we are at this point in
4 time with the white paper.

5 MR. GRACIE: Any questions or comments? Brandon, go
6 ahead.

7 *Questions and Answers*

8 MR. WHITE: I think it is great that we are making
9 progress on that white paper because I particularly am
10 interested in that since I raised that. I only say that given
11 how much concern, and Ed brings up we have got big fish, and
12 they are coming up.

13 I mean, we know it. We have seen a longer fishery
14 in Virginia Beach with the recreational than we have seen in
15 15 years. We have got guys saying it is the best fishing we
16 have ever had because they are big fish and the temperature is
17 just right that they are staying in the right spot for a
18 really long time, and they are coming up the bay.

19 And then we had catch and release on recreational
20 fishermen, and we didn't do a white paper. In fact we didn't
21 do any studies. We just had a lot of concern about big fish
22 being caught and released. And we have nets in the rivers,
23 catch and releasing striped bass right now, and we have got
24 big fish coming up the bay early.

25 So my concern is that while we are going to get the

1 paper, and whatever it says, it says, we are going to miss the
2 window another season because we are going to get that paper,
3 we are going to discuss it, and then we are going to figure
4 out if we can do anything at the next sport fish advisory
5 meeting based on what that feedback is, and based on if it is
6 a user conflict or a biological problem.

7 So the next meeting is April something? April 2nd.
8 There will have been fish being caught and released in those
9 nets the whole time, and then we are going to have to do
10 something about it, which we all know here in this room will
11 not happen until later in the summer.

12 When we had the catch-and-release instance, and we
13 had a lot of concern about that with recreational anglers, we
14 moved really fast because we were concerned that big fish were
15 being caught and released, and we didn't know what the impact
16 was on them going up into the rivers. And that was in the
17 main stem of the bay.

18 And now we have nets in the rivers that are off
19 limits to rec anglers catch and releasing the striped bass.
20 So I am glad that we are making progress on the white paper.
21 I am greatly concerned that we had a catch-and-release
22 instance with rec anglers in the main stem of the bay, we have
23 nets in the rivers catch and releasing striped bass, and we
24 are not taking fast action.

25 MR. GRACIE: Okay. Kelley, did you give us the

1 report from the --

2 LT. JOHNSON: (away from microphone) I did. And
3 the answer to the question, we are going to oppose that bill.
4 It is being worked on right now, and it will be testified on
5 next week, and NRP will be there to represent.

6 MR. GRACIE: And you don't know the whole rationale
7 at this point.

8 LT. JOHNSON: Well, I know some of it. I don't need
9 to elaborate on it now, but in short it is -- it is just
10 contrary to good law enforcement if the net has to be removed
11 within 24 hours of the --

12 MR. GRACIE: The timeframe, I figured that.

13 LT. JOHNSON: Yes. They have more to elaborate on
14 but that is pretty much the gist of it. For law enforcement,
15 it doesn't work.

16 MR. GOLDSBOROUGH: It does undermine enforcement to
17 have to do that.

18 MR. GRACIE: Okay, thank you. I think we are ready
19 for public comment. Anybody want to say anything? Ken?

20 ***Public Comment***

21 I am Ken Hastings. I am a sometimes recreational
22 fisherman, but apparently mostly I am just a government
23 watchdog. This is about the point where I generally make my
24 policies and priorities speech because I have a tendency, when
25 I talk about policies and priorities at DNR, the people who

1 have absolutely nothing to do with policies and priorities get
2 offended. And my Christmas card list suffers for that, so I
3 would like for that not to happen.

4 I am not talking about individuals. I don't know of
5 anyone here in this entire room that I don't care anything
6 about, and some of them I happen to like.

7 The problems that we are having right now in terms
8 of cost recovery and the bad press to the Department of
9 Natural Resources, I believe, date back to an historic,
10 callous disregard for laws designed to promote the public
11 trust. This is not a reflection on Tom, who inherited a bunch
12 of this mess from other people. If you look at the list of
13 people who watched all this happen and did absolutely nothing,
14 then you have to be happy that Tom is sitting where he is.

15 Having said that, it is not the kind of thing that
16 we can ignore anymore in terms of the state law situation.
17 The handout I gave you, on one side has the applicable parts
18 of the laws that were the source of the latest public outcry.
19 There has been a lot of discussion about whether laws are
20 broken or sort of broken. I don't know, sort of broken laws
21 are like being almost pregnant. I don't really see that as
22 being a viable explanation.

23 I have never seen anything come from the department
24 that says, you know, we really did screw up here and we really
25 appreciate you bringing this to our attention. We didn't mean

1 for this to happen, and we are going take immediate steps not
2 to let it happen again. I haven't seen that, and that bothers
3 me a little bit.

4 MR. GRACIE: We all heard that on a conference call,
5 by the way, from Tom O'Connell when recreational fishing money
6 had -- when it was discovered that it had been used to pay for
7 commercial tags.

8 MR. HASTINGS: Who was involved in that conference
9 call?

10 MR. GRACIE: The commission.

11 MR. HASTINGS: The commission. Okay. I am going to
12 address that in a couple minutes, if you don't mind. So state
13 law normally has something in there to do with accountability
14 whenever they set aside funds for something, and they do that
15 so that the public feels like their money is being covered by
16 a good steward. The people actually care about how their
17 money is spent.

18 And that is why it was in there, and it didn't
19 happen. For years and years and years it didn't happen. I
20 put in a Public Information Act request because I thought that
21 at least at some point that had been done, and I was
22 interested in past budgetary information. The answer I got
23 back was, no, we don't have the reports. But when we start
24 doing this the right way, we get some stuff, we will actually
25 make sure you are the first on the list to get it.

1 Well, I said, okay, well, that is okay, but even
2 before that happened I realized there was a problem because I
3 got an e-mail. The e-mail says we are working on your
4 request. Why was any work required? If you had ever already
5 done this, it is matter of going up and clicking on that
6 little clip up there on your, you know, that little thingy up
7 there that you attach things to your e-mail? It sends and it
8 comes to you.

9 And as soon as I realized it was a blank washout, I
10 went back and said, no, do not do that. You are not required
11 to do that. I don't want you to waste time doing that. And
12 the flip side of that piece of paper has the e-mail track for
13 that discussion.

14 I never wanted this to become a contentious public
15 issue. I just wanted the information. And if it wasn't
16 there, all I was looking for was an agreement that, yeah, it
17 is not a perfect world. We are going to work better. And I
18 think those are the words I used.

19 Subsequent to that, the damage control had started,
20 and I don't know who handles your damage control for you guys,
21 but you need to get somebody else to do it because now I see
22 that there is a report that might have been relevant. It is
23 included now on tidal fish. It is a reference to a report. I
24 don't believe reports are --- but apparently the department
25 does. And that means it should have been included in the PIA

1 request that I put in, in the first place.

2 Today I see something called priority setting
3 exercises -- something else I didn't catch trying to look past
4 people's heads and write at the same time -- that were also
5 discussed. And this was all done in the context of showing
6 that the department is not irresponsible in the way they do
7 budgeting and spending the money. That is what I asked for.
8 I asked for that kind of information. Maybe it wasn't
9 complete, but I didn't get it.

10 So naturally I am thinking now, well, that is two
11 laws a row. How far do we have to go? Well, there is also
12 accountability in most of these bills on how the money is
13 supposed to be spent. There is nothing that I can find
14 anywhere in this same section of the code that says it is okay
15 to spend recreational license fees on oyster sanctuaries, for
16 instance. And I know you have also seen the slide that came
17 around a few months ago that said that had happened.

18 So to me that is another problem. Federal law ---.
19 And here again, this went way back beyond Tom. This started
20 way back when. There is actually nothing that I can see, and
21 I am not a lawyer. But what I read, what I get off the
22 Internet ---, there is nothing in there about using it to buy
23 commercial tags for striped bass.

24 Certainly not in the intent of the law, and if I
25 were a lawyer I would be smarter about the letter of the law

1 but I will take it at that for almost 19 years a lot of money
2 was spent in a way that it should not have been spent. A lot
3 of people that sat in Tom's position and above him watched it
4 come across their desk and never said a word about it.

5 But Tom did, so hats off to Tom for doing something
6 to protect our money. We hear that we are not -- that nobody
7 is trying to keep anything from the public view. Well, I hope
8 you are not trying because you are doing such a good job
9 without trying that there is no point in you making an effort
10 or having a special policy or hiring anybody to do that.

11 You saw the bar charts up here today. I can give
12 you these numbers: 93 percent, 20 percent, 43 percent. All
13 of that is in there. There is absolutely no explanation for
14 it, and you know as you sit here right now, there is a
15 spreadsheet somewhere that was the basis for those numbers.
16 Wouldn't that spreadsheet go a long way to answer your
17 question?

18 And this business about mixing money up -- I hear
19 that commercial money goes on this side of the table.
20 Recreational money goes on that side of the table for license
21 fees. There is no barrier between them, and sometimes they
22 get mixed up. You want money, your are just going to take
23 some. So there is no real accounting for that.

24 So I am having trouble with 93 percent even. I
25 don't think anyone really knows, and believe, I believe that

1 the system is screwed up. I believe it needs to be fixed, and
2 I believe there has to be a better way to account for things.
3 And I don't think I am saying anybody that anybody here would
4 disagree with. It is a matter of time.

5 The sustainability certification: This has been a
6 mystery to me from day one, and I still don't know how much
7 money from what pot went to pay for it. And so I am just
8 going to treat this as not as a waste, fraud and abuse
9 situation, just a waste situation. Here we took \$130 some
10 thousand dollars -- I guess Steve never came back.

11 We took \$130 some thousand dollars, we gave it to an
12 organization to go out and do a sustainability certification
13 on a -- commercial striped bass fishing, that is arguably the
14 most corrupt fishery on the Atlantic coast. I will get some
15 frowns over that, and I want to say a little bit about that
16 because I was in Boston. I was at the last ASMFC meeting. I
17 went to Boston on my own time and my own dime, and it probably
18 cost me \$500 to go up there.

19 I am not going to stand here and criticize other
20 people because they didn't that. Maybe they can't afford to
21 do it. Maybe they are not retired. They got kids. I don't
22 know what the deal is. There was a time in my life, no way in
23 hell could I have done that. But I did it.

24 And what I heard there was this task force on law
25 enforcement talked about the things they learned from the

1 Chesapeake Bay, Maryland and Virginia fisheries, and all the
2 things that have been going for years. I knew these things
3 were going on long before anybody ever made a fuss about them.

4 I parked my bony butt on court seats and I went
5 through the sentencing hearing for Pro Fish, ---, and
6 everything that I already knew was validated right there in
7 what had happened. What was that, six, seven, eight years ago
8 that all started?

9 So now when people look for a way to talk about what
10 is wrong with the striped bass fishery, where do they go?
11 They go to the place where all the convictions came from.
12 What happened in Massachusetts and New Jersey --- nothing to
13 do with the discussion of whether the striped bass fishery is
14 corrupt. It all comes down to where do people get nailed.
15 And Vince O'Shea is right. Maybe -- I don't know that.

16 I don't know if people went to Massachusetts and New
17 Jersey, they would have found the same thing. My guess is
18 they probably would but I am not here to guess. But I know
19 what happened in Maryland, and I know that ASMFC looked at
20 that, and I know that in the last two meetings where the task
21 force people showed up, Maryland was the crux of the
22 discussion.

23 They used the things they learned about Maryland and
24 Virginia to come up with their recommendations. It may become
25 another addendum for the law enforcement people once everybody

1 gets there and says, yeah, we are all going to agree to do
2 this. They are going to do it because of what they learned in
3 Maryland, Virginia and the PRFC. Not anywhere else.

4 So we are the poster child for corrupt fishery
5 whether we like it or not, and that is embarrassing. I agree
6 with that. However the money was used -- I know where it came
7 from.

8 I thought it was interesting for all of the things
9 that are wrong with the fishery -- and I spent a lot of time
10 on the sustainability thing, so I couldn't imagine what set of
11 criteria or protocol that anyone could have who would say this
12 fishery, with all we know that is wrong with it, all the
13 questions --

14 We don't know how many people are fishing. We don't
15 know how many fish are being caught. We don't know how they
16 are being discarded. We don't have a by-catch policy -- all
17 those things are important for sustainability.

18 So I thought, well, this isn't going to work out
19 very well. And the certification people came to town. Before
20 they got here, after they got their money, the department
21 declared the striped bass fishery to be unsustainable because
22 inaccurate reporting and poaching.

23 Now it would have been a good idea to make that
24 decision and not to spend \$130,000 before you spilled your
25 guts publicly and said it is not sustainable. Now why you do

1 | people come here? Why don't you just pack up your bags and go
2 | home? See, that is the waste part of waste, fraud and abuse.
3 | It doesn't matter where the money came from. That was not a
4 | wise use of money here at the Department of Natural Resources.

5 | You could have flushed it down the toilet or you
6 | could have done something with the allocation policy, crappie
7 | FMP, the river herring FMP, the striped bass creel survey so
8 | we are not stuck with MRFS anymore. Pound net by-catch study,
9 | et cetera, et cetera, et cetera. But you didn't have the
10 | money because it has all been given away.

11 | I don't know what 19 years of --- abuses amounts to.
12 | I didn't see that up here. I am sure somebody knows. It is
13 | not public so I am not going to guess.

14 | MR. GRACIE: Are you saying you don't what the total
15 | dollars were?

16 | MR. HASTINGS: Right.

17 | MR. GRACIE: Okay.

18 | MR. HASTINGS: If I did, I would like to ask for it
19 | back. See if I knew how much it was, I would say, well, we
20 | could use that money. Look at all the things we could do with
21 | our money if it hadn't been abused. And this is a major thing
22 | to me, Tom. I am sorry. But it just something -- I know I
23 | have talked to you about it, and I think you agree. And you
24 | may not be in a position to agree as much as I do. But that
25 | was a major screw up.

1 And the bad news is fish and wildlife service
2 apparently went along with it, but DNR writes the grants. Am
3 I right about that? DNR writes the grants to get that money
4 to spend a certain way, and they are supposed to be
5 accountable for those public funds back due fish and wildlife
6 service.

7 So for all those years, somebody was writing a grant
8 to abuse the public trust, and taking the money and then
9 writing a report saying, yes, we abused the public trust in
10 the following way, and nobody in all these years ever stood up
11 and said anything until Tom O'Connell. Hats off to Tom. God,
12 why wasn't he there 20 years ago? Well, I know that he would
13 be ready to retire now so that wouldn't be a good thing for
14 us.

15 MR. O'CONNELL: Ken, if I could. Just to respond to
16 that, I mean, you know, and I have said this to the commission
17 before, that I don't support the use of --- money for that
18 use. But that is a common practice that is utilized along the
19 entire Atlantic coast, and I think Maryland's stoppage to that
20 is very unique. So while it shouldn't have been done, it was
21 a common practice then and continues today throughout the
22 coast.

23 MR. WHITE: Well, that is a common unethical
24 practice then, and that is terrible.

25 MR. GRACIE: It is illegal.

1 MR. WHITE: Well, I am trying to be nice, but I
2 appreciate your saying that word. But it is illegal, and it
3 has to stop, and I think Ken has got some great points. 19
4 years. I have brought it up before, how much money we spent
5 and how do we get paid back, because we have been supporting a
6 for-profit business with our rec dollars. Sorry, Ken.

7 MR. HASTINGS: No, no, go on. Carry on if you want
8 to. I have got a cold and I could use a break.

9 MR. WHITE: I am done. I am going to let you
10 continue.

11 MR. HASTINGS: So the e-mail that I wrote to Tom
12 back in the beginning of this whole thing when I realized that
13 they didn't have anything to show me, and that entered my mind
14 to start with I couldn't believe that for all those years,
15 nobody had done anything about that. It just fell through the
16 cracks. I don't think anybody meant to do this. I don't
17 think it was malicious. It wasn't somebody -- nobody
18 pocketing the money.

19 I understand all that. And so my immediate response
20 was, well, in the operation of cooperation and patience, let's
21 just -- if you don't have it, do not spend a lot of time
22 putting it together. That is not what I wanted. You can
23 spend your time in other ways. That is the answer to my
24 request. You don't have it. That is a valid answer. You are
25 not required by law to produce anything under a Public

1 Information Act request that you don't already have.

2 I can't say, well, Tom, I would like you to do an
3 1,800 page white paper on pound nets, for instance, and under
4 the PIA because it is not ---. Do you understand that? I
5 stand here today, there has been a lot of back and forth and
6 back and forth, and I haven't seen all of it and maybe once I
7 see it all maybe I won't be such a happy person. I am happy.
8 This is good for me actually.

9 The bottom line is we need to move on. We need to
10 get something done. And I was pleased to see a breakdown here
11 that actually I can get my arms all around here today. I
12 found a process for getting healthy. It even includes about
13 the same timeline that I wrote down in my notes here.

14 I think by June, we should have our arms around
15 this. We should know what it costs to run these fisheries and
16 where the money comes from and hopefully put a petition down
17 here somehow and figure out how this money gets mixed up for
18 things like this, sustainability that we -- I don't think
19 anybody really understands.

20 And that works in great from what I understand of
21 the department's bill that was covered in the tidal fish
22 slides, I think, in more detail about what they are planning.
23 You are going to have a work session, a workgroup, decide
24 starting in June, wow, what a great time to have this all put
25 together laid out there, and say, okay, guys, here is our

1 | problem. You know, here are some recommendations of things to
2 | help make things right here, but we got to do something.

3 | And so that is all working fine, and I am just
4 | tickled pink for that. I think that when it is done, it
5 | should be full disclosure, every penny, where it came, where
6 | it went from. Somebody made a joke on tidal fish about Coke
7 | and Pepsi and whatnot. I don't care about somebody's soft
8 | drinks. And I think it should be broken down by species and
9 | gear type. Otherwise, how are you going to make decisions?

10 | If you decide the gill net fishery costs you a
11 | million five or something and you are a million five short,
12 | you know, you are going to say, oh, okay, I won't do this.
13 | But if you don't know that, you can't make those kinds of
14 | decisions. So this has to be in detail.

15 | I am going to need the following things as a result
16 | of this, and I don't know how I am going to get them. I will
17 | tell you what I need first, and you can tell me. I know that
18 | just me standing up here and ranting and raving like a madman
19 | is not going to make a difference because it is not the first
20 | time I have done it. You would think I would have learned by
21 | now, but I am a slow learner.

22 | I know that somewhere along the way I am probably
23 | going to have to help encourage this process along. It always
24 | has a way of dying in midstream or getting slowed down, and I
25 | understand that Tom is not in complete control of his destiny

1 here. I understand the realities of the politics and the
2 bureaucracies and how they work.

3 So at some point I may have to dive into this some
4 more, and I am willing to do that. I am going to need a copy
5 of the attendance list for tonight's meeting. I will need a
6 copy of the transcribed minutes when they are ready, and I am
7 going to need a copy of this alleged, what I call a spin
8 doctor version of the things that have happened here that I
9 understand were sent to the Sport Fish Advisory Commission.

10 Now the custodians of all this information are
11 sitting here tonight, so I think if you want me to make this
12 as an official Public Information Act request, I can. I don't
13 actually have to spend \$5.59 on a registered letter to do
14 this. If I understand the law correctly, I can ask for it,
15 and that is good enough.

16 So I would like to know who the custodians are of
17 those three pieces. I think Tom certainly has it in his power
18 to get me copies of all that stuff. The one letter was sent
19 probably to Jim Gracie, and he would be a custodian that could
20 give me that so I just would like to have a commitment that he
21 is going to give me that information.

22 ***Questions and Answers***

23 MR. GRACIE: I am not sure what information you are
24 talking about. What letter are you referring to that was sent
25 to me?

1 MR. HASTINGS: I am talking about the letter from
2 Tom to the Sport Fish Advisory Commission, the alternate view
3 of the issues, what I refer to as the spin-doctor version.

4 MR. GRACIE: Well, are you referring to the e-mail
5 response to me transmitting your statement on tidalfish.com?
6 I sent that out to the commission and to Tom, and then he
7 responded. Is that what you are talking about?

8 MR. HASTINGS: I don't the sequence of events. I am
9 blind here.

10 MR. GRACIE: Well, I don't know any other thing that
11 Tom has given us.

12 MR. O'CONNELL: If you would like my response to the
13 commission based upon Jim's forwarding of your posting on
14 tidalfish, I would be happy to send that to you.

15 MR. HASTINGS: I think that is correct. I don't
16 know --

17 MR. GRACIE: I am not trying to give you a hard
18 time. I am trying to make sure I understand what you want.

19 MR. HASTINGS: And I would like to help you more.
20 All I know is there is something floating around here, and I
21 need to know what the rules of engagement are here. I thought
22 I knew. I thought I knew how this was going to be done. I am
23 having trouble right now imagining how the things that I wrote
24 are being taken as not accurate or not reasonable or untimely,
25 so I need to understand that.

1 MR. GRACIE: I have a bigger question. I don't know
2 how you would expect us to be able to respond to something
3 that you didn't send to us. That is what I did because it was
4 on tidalfish.com. So I forwarded it to people so they would
5 see what you are saying so it would be addressed.

6 MR. HASTINGS: The Public Information Act gives me
7 that right. I don't have to know exactly who said what to
8 who. All I have to know is there is a document that was paid
9 for with my tax dollars.

10 MR. GRACIE: I am not talking about your rights. I
11 am talking about how would you expect us to even know how to
12 respond to you when you didn't ask us.

13 MR. HASTINGS: Well, I didn't ask you.

14 MR. GRACIE: Right, you didn't ask us.

15 MR. HASTINGS: I understand that. I am doing that
16 now. Okay, because I didn't know enough to ask before. Now
17 you have elaborated some things. Now I understand more about
18 the process and how it happened, so --

19 MR. GRACIE: I pulled something off tidalfish.com
20 that I thought needed to be responded to. So I passed it out
21 the commissioners and sent a copy to Tom. That is all. That
22 was an accident that I happened to see that though.

23 MR. HASTINGS: I don't need the tidalfish.com thing.
24 I am the author. I need the response back.

25 MR. GRACIE: But you didn't ask for a response.

1 MR. HASTINGS: I am asking for a response now.

2 MR. GRACIE: Okay.

3 MR. HASTINGS: Okay. So we are good then. Oh, are
4 there any questions? Anything that I -- is there anybody that
5 I haven't totally pissed off here that I can, you know, just
6 take this one step further now?

7 MR. WHITE: This is true? I mean, this is the code,
8 and it has ---. But it will be fulfilled in the future.

9 MR. O'CONNELL: I think I have said that in my ---
10 back to Ken. I have said it in my response to --

11 MR. GRACIE: The commission.

12 MR. O'CONNELL: -- the commission, and I sent it
13 today.

14 MR. JETTON: I don't think that is new news. I
15 think we knew that.

16 MR. HASTINGS: And now it is on the record so that
17 takes care of that. All right.

18 MR. D. SMITH: Is Steve coming back?

19 MR. GRACIE: Doesn't look like it.

20 MR. O'CONNELL: Lynn, do you know if Steve is coming
21 back? What I can do, I will follow up with him and send an
22 e-mail with those answers to those two questions. The two
23 questions are can sport fish review it as part the DNR client,
24 and what is the public comment period after the report comes
25 out.

1 MR. WHITE: Can I ask a follow up on Ken's question,
2 on Ken's comment, because if we did pay them money, and DNR
3 said it is unsustainable, how could they ever come out with
4 something that says that is certifiable when the very
5 department itself --

6 MR. HASTINGS: Oh, I wish I hadn't sat down. I
7 could answer that.

8 MR. WHITE: -- I am actually asking it from a
9 department view. How could the department not tell them, hey
10 look, we have already said it is unsustainable. You are our
11 client, right? We have already determined it is not, so we
12 can save time, money and effort in the future.

13 MR. GRACIE: Go ahead, Tom.

14 MR. O'CONNELL: So we did -- I will have to go back
15 and look but I trust we probably said it if Ken tracked it
16 down. I think after the poaching round we made a public
17 statement that this fishery is not sustainable given its
18 current management.

19 We have taken significant actions since last winter
20 that we believe meets our management principles, and we have
21 provided that information to the MSC group, and we have raised
22 concerns of the past, and we have facilitated meetings between
23 them and NRP, so they are well aware of the issues.

24 MR. WHITE: So what you came up with was -- you came
25 up with a plan, of which I don't deny, and you instituted some

1 | things of which you could afford. But the plan has some
2 | things of which we have no idea to this day, unless things
3 | have changed, how we are going to pay for. And if that is the
4 | case, then we -- we have an idea of a plan without a way to
5 | pay for the plan.

6 | So that to me is not a comprehensive business plan.
7 | That is a plan without the revenue to pay for the plan, of
8 | which, in business, generally can't happen.

9 | MR. GRACIE: First of all, I think we were all told,
10 | and my understanding is that there is a way to pay for that
11 | plan out of general revenue.

12 | MR. WHITE: The complete plan -- the hailing and
13 | everything.

14 | MR. GRACIE: Yes.

15 | MR. O'CONNELL: And we are looking at legislation to
16 | give us the authority to bill for tags and handlings services.

17 | MR. WHITE: So as we speak right now, there is no
18 | legislation and there is no way to pay for that. Is that
19 | correct?

20 | MR. O'CONNELL: You know, if we don't get that
21 | legislation, those funds, we will have to review whether or
22 | not we have general funds to --

23 | MR. WHITE: So the answer is yes, there is no way,
24 | as you and I are talking right now, to pay for that.

25 | MR. O'CONNELL: I am not answering yes. If we don't

1 get the funds --

2 MR. GRACIE: He gave you a different answer than
3 that. You are rephrasing his answer, Brandon. Calm down.
4 You are rewording what he said.

5 MR. WHITE: Really?

6 MR. GRACIE: Let him say it again.

7 MR. O'CONNELL: If we do not get the authority --

8 MR. BRANDON: I am done. You don't need to worry
9 about it.

10 MR. O'CONNELL: Well, just for the record, if we
11 don't get the authority to establish a billing service for
12 striped bass tags and hailing services, we will have to review
13 whether or not we have the general funds to pay for that. If
14 we don't, we will have to take the next required actions.

15 MR. GRACIE: Does that answer your question?

16 MR. WHITE: It is answer, but it didn't answer my
17 question.

18 MR. D. SMITH: Speaking to the MSC, as a client,
19 would the department be willing -- just thinking out loud --
20 to get out of that contract?

21 MR. O'CONNELL: I think we are really interested to
22 see what their viewpoint is on Maryland striped bass fishery,
23 and if they identify deficiencies, I think that would be
24 helpful to us addressing those problems.

25 MR. GRACIE: Okay, Marty, you had some logistics

1 comments?

2 MR. GARY: Just two technical things to bring to
3 your attention and one last thing before we all leave.
4 Expense sheets: For all of you that submit those, Dianne will
5 continue to process them, but since the meetings are during
6 the day, we did agree, and we will be able to allow for
7 reimbursement for dinner expenses but you need to provide the
8 receipts for us.

9 So I am going to e-mail you tonight or after this
10 meeting our facsimile number here. So if you eat anywhere and
11 stop, get the receipt. We can reimburse you up to but not to
12 exceed \$24 for dinner, and you have to provide the receipt for
13 exact expenses. No alcohol. And you will fax those into
14 Dianne and then we will go ahead and incorporate those with
15 the sheets.

16 MS. SAMUELS: Another commissioner had mentioned to
17 me about the parking up the hill. If they submit their
18 receipt to me, it would be included with that dinner expense.
19 And I want to also emphasize that the dinner, a lot of
20 receipts have the time that you ate, and if you stop before
21 the meeting, that is not going to count for dinner. Sorry.

22 MR. GARY: She mentions it because somebody
23 apparently tried to do that. Two last things. We are just
24 about pinpoint on time. Our next meeting is going to be on
25 April 2nd. I believe it is a Monday, so I will be in touch

1 with you on that. And I know there was a lot of passion
2 exhibited here today. Please don't leave without ending on an
3 up note.

4 Z is helping us with a little thing we wanted to do.
5 Just on behalf of all my colleagues, we want to thank
6 everybody for taking their time and being candid and providing
7 their input, including the public and Mr. Hastings. We have a
8 lot of people in this room who share one attribute, which is
9 they care for our resources. So don't misinterpret anything.
10 I know my colleagues Tom and others feel that way.

11 At the end of the day, we all care about the
12 resources we showed up here to passionately discuss. So let's
13 check our egos at the door when we go out and work together to
14 make it a better place. So Z, without further ado, we have a
15 birthday in the room.

16 (Birthday celebration for Chair Jim Gracie)

17 MR. GRACIE: With that, the meeting is adjourned.

18 (Whereupon, the meeting adjourned at 4:00 p.m.)
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